

March 12, 2026
(27) ARDR

WPA 23649 of 2025

Asharuddin Sk. & anr.
Vs.
The State of West Bengal & ors.

Adv. Sujit Kr. Ghosh,
Adv. Bhagbat Chaudhuri,
Adv. P. Roy,

...for the petitioners.

Sr. Adv. Pratip Chatterjee,
Adv. Maitrayee Chatterjee,

...for the respondent no.4.

Adv. Santanu Kr. Mitra
Adv. Benzir Ahmed,

...for the State.

The petitioners have alleged illegal/unauthorised construction being raised by the private respondents without obtaining any sanctioned plan. The petitioners submitted a representation in this regard before the concerned authority on 15th April, 2024 which was not considered. The petitioners approached this Court in a writ petition being WPA 12761 of 2024 seeking consideration of the representation by the appropriate authority. By an order passed on 18th October, 2024, a coordinate Bench of this Court directed the concerned authority to consider the representation. In compliance thereof the Pradhan, Hizole Gram Panchayat considered and disposed of the representation by an order passed on 27th January, 2025 upon hearing the parties. The said order has been assailed before this Court.

Learned counsel for the petitioners submits that the Pradhan has recorded that the private respondents have

failed to produce necessary documents regarding their ownership in respect of the plot in question. The writ petitioners have produced hebanama in support of their title. It is also recorded that there is an existing one storied building in the plot which is occupied by the private respondents for more than fifteen years and no objection was raised from any corner when the said building was constructed. Learned counsel submits that a misc. case under Section 144 of the Code of Criminal Procedure was filed by the petitioners wherein the learned Executive Magistrate directed that no illegal construction should take place in the plot in question. The petitioners allege that despite such direction, the private respondents continued to raise construction in the land illegally.

I have considered the rival contention of the parties.

It appears from the order impugned that though the Pradhan has recorded that the private respondents have failed to produce any document in support of their title in respect of the property, there is no whisper in the said order with regard to the construction which is allegedly continuing in the property. The representation submitted by the petitioners states that the private respondents have been presently raising construction in the plot forcibly and illegally. This fact has not been dealt with in the order impugned.

In view of the above, this Court is inclined to hold that the order impugned suffers from major defects and it is required to be set aside.

Accordingly, the order impugned dated 27th January, 2025 passed by the Pradhan, Hizole Gram Panchayat is set aside.

The Pradhan, being the 4th respondent herein, is directed to revisit the issue and pass a reasoned order upon consideration of the representation submitted by the petitioners and upon granting reasonable opportunity of hearing to the parties within four weeks from the date of communication of this order, in accordance with law.

The decision taken by the authority shall be communicated to the parties within a week thereof.

In the event the construction allegedly raised by the private respondents is found to be illegal/unauthorised, the concerned authority shall take necessary steps in accordance with law.

The writ petition is accordingly disposed of.

There shall however, be no order as to costs.

Since no affidavit is invited, the allegations contained in the petition are deemed not to have been admitted.

Urgent certified website copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Suvra Ghosh, J.)