

May 5, 2026
(75) ARDR

WPA 25079 of 2024

Latika Begum & anr.
Vs.
The State of West Bengal & ors.

Adv. Mujibar Ali Naskar,
Adv. Imtiaz Ahmed,
...for the petitioners.
Adv. Partha Pratim Roy,
Adv. Samrat Chakraborty,
...for the private respondent.
Adv. Md. Kutubuddin,
...Special Officer.

Heard learned counsels for the parties.

The petitioners allege unauthorised/illegal construction raised by the private respondent by way of misrepresentation as well as deviation from the sanctioned building plan. They submitted a representation before the concerned authority in this regard on July 7, 2023 which was not considered. The petitioners approached this Court in a writ petition being WPA 10626 of 2023 seeking consideration of the representation. By an order passed on July 12, 2024, a coordinate bench of this Court granted liberty to the petitioners to submit a fresh representation before the Pradhan of the concerned Gram Panchayat with regard to the unauthorised and illegal construction raised by the private respondent as alleged and further directed the Pradhan to cause a physical inspection of the alleged construction and thereafter afford reasonable opportunity of hearing to the parties and pass a reasoned order in accordance with law. Pursuant to such order, physical inspection was held in presence of the parties. Upon

consideration of the physical inspection report, the Pradhan, Salar Gram Panchayat has held that the construction raised by the private respondent is in terms of the sanctioned building plan. The allegation of the petitioners was dismissed. The petitioners have assailed the physical inspection report dated August 5, 2024 before this Court.

By an order passed on December 12, 2025, this Court appointed a Special Officer to inspect the premises in question with the assistance of a qualified surveyor and upon examining the sanctioned building plan issued by Salar Gram Panchayat. Report was submitted by the Special Officer upon conducting inspection in terms of the said order.

The private respondent purchased the plot in question by virtue of a registered deed of sale on August 5, 2005. The schedule of the deed does not indicate any existing structure in the said plot. The total area of the plot as per the deed is 2061.5 square feet. The first sanctioned building plan granted in favour of the private respondent is for construction of residential unit covering 964 square feet of land. The private respondent applied for further sanction for extension of the ground floor and construction of the first floor wherein the existing ground floor covered area has been shown as 1029.22 square feet instead of 964 square feet, meaning thereby, that the existing ground floor area was misrepresented/inflated by the private respondent in applying for further sanction.

Building plan for both the floors was sanctioned by the concerned Panchayat covering an area of 3092.74 square feet. There is no dispute with regard to the area of the proposed first floor covered area comprising of 1546.37 square feet. The area of the proposed ground floor covered area ought to have been 964 square feet plus 517.15 square feet, i.e., 1481.15 square feet. Instead, the total sanctioned ground floor covered area was 1546.37 square feet which was granted on the basis of misrepresentation of the existing ground floor area by the private respondent. Taking the covered area of the existing plus proposed ground floor area to be 1481.15 square feet and the covered area of the first floor to be 1546.37 square feet, the total sanctioned plan ought to have been granted for an area of 3027.5 square feet. Instead, the sanction has been granted for a total area of 3092.74 square feet.

It appears from the inspection report submitted by the Special Officer appointed by this Court that the private respondent has raised construction covering an area of 3744.662 square feet, i.e., 651.922 square feet in excess of the sanctioned building plan granted upon misrepresentation of the private respondent. The said plan ought to have been granted for an area of 3027.5 square feet. In such event the construction raised in excess thereto is 717.162 square feet. Deviation insofar as the ground floor is concerned, is 296.9935 square feet and deviation for the first floor is 420.1485 square feet.

Rule 23 of the West Bengal Panchayat (Gram Panchayat Administration) Rules, 2004 contemplates that maximum building coverage of an existing plot shall be $2/3^{\text{rd}}$ of the total area for a residential building and $1/3^{\text{rd}}$ of the total area shall be kept vacant and shall include front, side and rare space. The construction raised by the private respondent appears to be in violation of the said rules.

In the said backdrop, this Court is inclined to hold that the physical inspection report and order passed by the Pradhan on August 5, 2024 in terms of the said report does not give a correct picture of the construction raised by the private respondent and is liable to be set aside.

Accordingly, the physical inspection report including the observation made by the Pradhan therein is set aside/quashed.

The Sub Divisional Officer, Kandi, being the 4th respondent herein, shall assess the extent of deviation made by the private respondent vis a vis the sanctioned building plans/the basis thereof in the light of the observation made in this order and take necessary steps for demolition of the said portion in accordance with law.

The entire exercise shall be completed within six weeks from the date of communication of this order.

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.)