

17 20-01-2026
AKG
Ct. 15

WPA 27247 of 2025
Md Saharul Sk & Anr.
Vs.
The State of West Bengal & Ors.

Mr. Mukteswar Maity,
Ms. Manika Sarkar

...for the Petitioners

Mr. Debashis Sur,
Mr. Himadri Ch. Pal

...for the Private Respondents.

The petitioners allege that respondent nos. 7 to 9 have encroached upon a portion of a Panchayat road by raising an unauthorised construction. It is contended that such construction obstructs the ingress and egress of the petitioners from their residential premises.

Learned advocate appearing for respondent nos. 7 to 9, on the other hand, submits that the structure in question is a tin shed and, therefore, does not fall within the jurisdiction of the Panchayat for demolition.

It appears that the vendor of the petitioners had earlier filed a writ petition seeking removal of the alleged unauthorised construction. The said writ petition, being WPA 7311 of 2020, was disposed of on December 3, 2020 by a Coordinate Bench of this Court with a direction upon the Panchayat to take necessary steps in accordance with law.

Subsequently, the petitioners purchased the property in the year 2024.

Having regard to the aforesaid facts, this Court is of the view that the petitioners purchased the property with full knowledge of the existing alleged encroachment. The writ court is not the appropriate forum to adjudicate disputed questions relating to encroachment, which require determination upon evidence.

Such issues are more appropriately decided by a competent civil court upon consideration of oral and documentary evidence.

With regard to the tin shed structure, the same does not require prior permission from the Panchayat in view of Section 23(5) of the West Bengal Panchayat Act, 1973. Consequently, the Panchayat cannot initiate demolition proceedings in respect thereof by invoking Section 23(5) of the said Act.

The petitioners shall, however, be at liberty to approach the competent civil court for appropriate relief in accordance with law.

Accordingly, **WPA 27247 of 2025** stands dismissed.

Urgent certified *website* copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Kausik Chanda, J.)