

10.02.2026
Item No.41
Ct. No.15
Suman

WPA 29703 of 2025

Arun Kumar Dutta and Anr.
-Vs-
The State of West Bengal and Ors.

Mr. Subhas Jana
..for the petitioners

Mr. Sayantan Hazra
Ms. Shalini Sen
Ms. Sahina Parvin
..for respondent no.6

Mr. Bhakti Prasad Das
..for the State

Despite service, private respondent nos. 10 and 11 remain unrepresented.

The petitioners allege that unauthorised construction has been undertaken at the behest of respondent nos. 10 and 11. It is submitted that, without obtaining any permission from the Panchayat, respondent nos. 10 and 11 have commenced and continued unauthorised construction upon a parcel of land jointly owned by the petitioners and respondent nos. 10 and 11.

It is further submitted that a partition suit between the parties is presently pending before the competent Civil Court and that an order of status quo has been passed therein. Notwithstanding the

said order of status quo, the construction is allegedly continuing.

The Panchayat is represented. Learned counsel appearing on behalf of the Panchayat submits that the Pradhan has already issued a stop-work notice dated July 19, 2024, against respondent no. 10. It is further submitted that, in view of the pendency of the civil suit between the parties, the Panchayat has not taken any further steps in the matter.

Upon consideration, this Court is of the view that the Pradhan, having noticed the alleged unauthorised construction, has already issued a stop-work notice on July 19, 2024. In the event the Pradhan is satisfied that unauthorised construction is continuing at the premises in question at the behest of respondent nos. 10 and 11, the Panchayat authorities are required to take appropriate steps in terms of Section 23(5) of the West Bengal Panchayat Act, 1973. The pendency of the civil suit, in the facts and circumstances of the present case, cannot operate as a bar to the exercise of statutory powers under Section 23(5) of the Act by the concerned authorities.

Accordingly, **WPA 29703 of 2025** is disposed of with the following directions:

(a) If the Pradhan does not find any substance in the allegations of the petitioners, no further steps shall be required to be taken.

(b) If any unauthorized construction is detected at the behest of respondent nos.10 and 11, as alleged by the petitioner, the Pradhan shall take steps in accordance with Section 23(5) of the West Bengal Panchayat Act, 1973, by making a reference to the concerned Sub-Divisional Officer within ten days from the date of communication of this order.

(c) In such an event, the Pradhan shall also restrain respondent nos.10 and 11 from carrying out any further unauthorized construction until a decision is taken by the concerned Sub-Divisional Officer under Section 23(5) of the West Bengal Panchayat Act, 1973. The Pradhan shall also inform the Officer-in-Charge of the concerned police station regarding the alleged unauthorized construction, and the Officer-in-Charge shall ensure that no unauthorized construction is undertaken at the relevant premises pursuant to such communication.

Urgent photostat certified copy of this order, if applied for, be supplied to the learned advocates for the parties on usual undertakings.

(Kausik Chanda, J.)