

Item No.07
10.09.2026
Court. No. 12
Sandip

MAT 1481 of 2026
With
CAN 1 of 2026

Pritilata Gharami & Ors.
VS
Bikash Sardar & Ors.

Mr. Biswarup Biswas,
Mr. Gora Chand Samanta

...for the Appellants.

Mr. Souvik Nandy, Ld. Sr. Govt. Adv.,
Mr. Suman Banerjee,
Mr. Kaustav Seal

...for the State.

Mr. Sounak Bhattacharya,
Mr. Sounak Mandal,
Ms. Bipasha Bhattacharyya

...for the Respondent No.1.

1. The appeal arises out of an order dated August 25, 2026 passed in W.P.A. 11371 of 2026.
2. By the order impugned, the learned single Judge directed the Sub-Divisional Officer, Canning Sub Division to implement the order of demolition which was passed in a proceeding under Section 23(5) of the West Bengal Panchayat Act, 1973.
3. The appellants were represented before Her Lordship. We do not find from the order of Her Lordship that the appellants prayed for liberty to file any affidavit-in-opposition.
4. Thus, the first contention of Mr. Biswas that without granting an opportunity to file an affidavit-in-opposition, the learned single Judge could not have directed the Sub-Divisional Officer to implement his demolition order, cannot be accepted. Secondly, even assuming that Mr

Biswas could have produced relevant documents before Her Lordship which he could not do at the time of hearing of the writ petition, we find that the only document in support of the appellants is an alleged sanction which was granted in respect of a commercial construction on Plot No. 403. The dispute is not with regard to the construction over Plot No. 403, but with regard to the unauthorised construction over Plot No. 404. Hence, non-production of the sanction plan in respect of the construction over plot No. 403, has not caused any prejudice to the appellant.

5. In compliance of the directions passed in a writ petition and subsequently in a contempt proceeding, the panchayat authorities had conducted an inspection and come to a finding that the construction over plot no. 404 was without any sanction and was not permissible in law. The records, along with such finding were sent to the Sub-Divisional Officer for steps to be taken under Section 23 (5) of the of the West Bengal Panchayat Act, 1973. The Sub-Divisional Officer upon hearing the parties, passed a reasoned order. The appellants were also present before the Sub-Divisional Officer. The finding of the Sub-Divisional Officer is quoted below :-

“On verification of the case record, it appears that the Hon’ble High Court at Calcutta in WPA 18303 of 2021, vide order dated 31.10.2022, directed the competent authority to enquire into the allegation of unauthorized construction raised by the petitioner and to pass a reasoned order after giving opportunity of hearing to all concerned parties.

It further appears from the records that Taldi Gram Panchayat conducted spot inspection, heard the parties and passed a reasoned order Ref. No. TGP/1474A/C.C/25 dated 28.10.2025 holding that the construction raised by the private respondents over Plot No. 404, J.L. No. 71, Mouza-Taldi, P.S. – Canning, South 24 Parganas was made without obtaining prior sanction from the competent authority and was therefore unauthorized in nature.

The records further reveal that despite sufficient opportunity, the private respondents failed to produce any valid sanction plan or permission granted by the competent authority in support of the construction in question.

The inspection report, hearing records and reasoned order of the Gram Panchayat have been carefully perused. No material has been produced before the undersigned to dislodge the findings recorded by the Gram Panchayat authority.

Now therefore, after careful consideration of all materials available on record and in compliance with the directions of the Hon'ble High Court, I am satisfied that the construction raised by the private respondents over the subject property is unauthorized and liable to be removed in accordance with law."

6. Accordingly, it was ordered that the unauthorised constructions standing over plot no. 404, J.L. No. 71, Mouza-Taldi, P.S. – Canning, Sout 24 Parganas must be

removed/demolished within 15 days from the date of communication of the order. The appellants and similarly situated persons were directed to remove the unauthorised structure voluntarily, within the aforesaid period. In the event of failure to comply with such order within the stipulated period, the Block Development Officer, Canning – I Development Block and the Pradhan, Taldi Gram Panchayat were directed to take necessary steps for demolition/removal of the unauthorised construction in accordance with law, without any further reference to the Sub-Divisional Officer. The Officer-in-Charge, Canning Police Station was also directed to provide adequate police assistance and ensure maintenance of law and order.

7. We have been informed by Mr. Nandy, learned senior Government Advocate that pursuant to the direction of the Sub-Divisional Officer, the Block Development Officer, Canning – I Development Block with the assistance of the police started the process of demolition, but the appellants assured that demolition would be done by them voluntarily.
8. We fail to understand how the Block Development Officer, Canning – I and the police authorities could stop the process of demolition when the period allowed to the appellants for self-demolition, had expired. We do not appreciate the conduct of the administration. Under such circumstances, when there was an order of the Constitutional Court directing demolition of the unauthorized construction, the authorities could not have discontinued the process.

9. We do not find that the appellants have been able to substantiate any right over any construction on plot no. 404 and the order of the Sub-Divisional Officer is restricted to the construction on plot no. 404. The unauthorised construction has been inspected and identified. The appellants were given adequate chances of representation both before Gram Panchayat and the Sub-Divisional Officer. Under such circumstances, as the appellants could not support any construction over plot no. 404, the construction on plot No. 404, shall be demolished in terms of the order of the Sub-Divisional Officer.
10. Mr. Biswas, contends that the writ petitioners also had made an unauthorised construction, but no steps had been taken. The appellants are at liberty to approach the respondent authorities, by ventilating their grievances.
11. Accordingly, the appeal and the application are disposed of.
12. Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Shampa Sarkar, J.)

(Arjun Ray Mukherjee, J.)