30.09.2026
SL No.8
Court No.12
(gc)

MAT 1385 of 2026
CAN 1 of 2026

Saroj Parichha
Vs.
The State of West Bengal & Ors.

Mr. Siddhartha Sarkar,
Mr. Amit Ranjan Pati,
Ms. Swastika Chowdhury,
Ms. Ilika Nag,
Mr. Sourav Gupta,
Mr. Avijit Chatterjee

... for the Appellant.

Ms. Susmita Saha Dutta, AGP.,
Mr. Niladri Saha

...for the State.

1. Affidavit-of-service is taken on record. Despite service, none appears on behalf of the respondents apart from the State respondents.

2. The appeal is preferred against an order dated August 14, 2026 being WPA 16391 of 2026. The learned Single Judge dismissed the writ petition on the ground that the dispute was civil in nature and the redressal of the grievances of the appellant would be before a civil court. We have perused the complaint filed before the Gram Panchayat, which is at page 70 of the connected application. A complaint was lodged by the appellant alleging that the respondent nos.10 and 11 were raising a construction without any permission from the Gram Panchayat on the plot belonging to the appellant.

3. We agree with Her Lordship to the extent that the allegation of encroachment on the appellant's land, is

a matter which has to be decided by a civil court. However, the allegation that the construction was being made without any sanction or permission from the Gram Panchayat, has to be decided by the Gram Panchayat in terms of Section 23 of the West Bengal Panchayat Act, 1973. We set aside the order impugned.

4. The appeal is allowed. The concerned Gram Panchayat will consider and dispose of the complaint dated May 22, 2026 in accordance with law. While doing so, the following procedures shall be followed:-

a) An inspection of the subject construction shall be made in the presence of all the parties, including the respondent nos.10 and 11.

b) In the event, it prima facie appears that the construction was being made without any permission, the Gram Panchayat shall issue a stop work notice in respect of such construction.

c) A report thereof shall be prepared and handed over to the parties.

d) The parties will be entitled to respond to such report and file their exceptions/objections/written versions.

e) A hearing shall be given to all the parties.

f) An order shall be passed indicating whether there has been any construction without any sanctioned plan or in violation of the rules. Such order shall be served upon the respective parties and forwarded to the concerned Sub-Divisional Officer for further compliance of Section 23(5) of the West Bengal Panchayat Act, 1973.

g) The entire exercise shall be completed within a period of three months from the date of communication of this order.

5. It is made clear that the right, title and interest of the parties in respect of the land over which the subject construction is being raised, shall not be decided by the Gram Panchayat.

6. Accordingly, the appeal and the connected application are disposed of.

7. However, there shall be no order as to costs.

8. Urgent Photostat certified copy of this order, if applied for, be supplied to the parties on usual undertaking.

(Shampa Sarkar, J.)

(Arjun Ray Mukherjee, J.)