

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

BEFORE :-

THE HON'BLE JUSTICE SHAMPA SARKAR
&
THE HON'BLE JUSTICE ARJUN RAY MUKHERJEE

MAT 1146 of 2026

with
CAN 1 of 2026

Sri Agasti Charan Ghosh
vs.
The State of West Bengal & Ors.

For the Appellant	: Mr. Md. Galib, Adv. Mr. Tarun Kumar Das, Adv. Mr. Sujit Bhunia, Adv.
For the State	: Mr. D.N. Roy, Ld. GP. Mr. Arka Bhattacharya, Adv. Ms. Madhurima Basu, Adv.
For the Respondent No.8	: Mr. Saikat Banerjee, Sr. Adv. Mr. Kaushik Dey, Adv. Mr. Sutirtha Das, Adv. Mr. Bidhan Modak, Adv. Mr. Surojit Mukherjee, Adv.
Judgment reserved on	: 24.08.2026
Judgment pronounced on	: 15.09.2026
Judgment uploaded on	: 15.09.2026

Shampa Sarkar, J.

1. The appeal arises out of an order dated July 13, 2026 passed in WPA No. 16387 of 2026. By the order impugned, the learned Single Judge dismissed the writ petition, inter alia, holding that the writ petition was devoid of any merit. Her Lordship took into consideration the entire background of the case relating to an unauthorized construction and the multiple litigations arising therefrom. A Division Bench of this court had already held that the construction raised by the appellants was without any sanction and without conversion of the land from agricultural to bastu. Upon detection of such illegality by a Bench of greater strength, the learned Single Judge held that she had no authority to stay the operation of the letter issued by the Block Development Officer (In short BDO), Nayagram Development Block dated July 7, 2026, by which the authority had asked the appellant to vacate the house within July 13, 2026 so that the demolition of the building could be effected on July 14, 2026.

2. Mr. Galib, learned Advocate for the appellant submitted that the order impugned was passed without appreciating the factual disputes involved. The respondents ought to have been directed to file their affidavit-in-opposition in response to the challenges thrown to their action in the writ petition. Without understanding the true essence and purport of the orders passed by the Hon'ble Division Bench, Her Lordship dismissed the writ petition mechanically, by citing the decision of the Division Bench. Such order was passed by Her Lordship during the pendency of an application for review of the order passed

by the Division Bench. Instead of dismissing the writ petition, Her Lordship should have passed an interim order of stay of the communication of the BDO, and awaited the final outcome of the review application. It was urged before us that the review application has been dismissed and filing of a special leave petition, before the Apex Court was contemplated. In the event the demolition takes place, such special leave petition would become infructuous.

3. It was urged that, the construction was covered by the provision of deemed sanction under Rule 30 of The West Bengal Panchayat (Gram Panchayat Administration) Rules, 2004 (in short the 2004 Rules). The application for sanction of the building plan was made by the appellant on August 2, 2021 and after expiry of 60 days from the said application, as the appellant did not receive any information from the gram panchayat, the construction was raised. Moreover, the Pradhan had also granted a no objection for conversion of the land in question. Subsequently, such conversion was allowed. The proceedings were initiated on the basis of a complaint by a private individual, alleging encroachment upon his land. It was alleged that that the land was still undivided and the construction should not be allowed to remain.

4. Thus, according to Mr. Galib, the dispute between the parties was a private dispute and civil in nature. The gram panchayat did not raise any objection to the said construction. No public law element was involved and as such, the writ petition should not have been entertained at all. Unless there

was proper demarcation of the portions of the land that were being enjoyed by the parties, the dispute raised by the respondent No. 8 could not be resolved. As such, demolition of the construction would be harsh and contrary to law. The order of demolition passed by the Sub-Divisional Officer dated August 21, 2024, was nothing but a product of non-application of mind and a reiteration of the directions of the High Court. The order was passed without proper investigation and enquiry. The Sub-Divisional Officer also failed to take into consideration the law relating to deemed sanction. Later, the appellant had filed an online application before the gram panchayat on January 9, 2023, seeking sanction of the constructed building. The sanction was granted on December 20, 2023. In this case, post-facto sanction was permissible, inasmuch as, the construction was already protected under Rule 30 of the 2004 Rules. The post facto sanction only put a seal of validity on the construction. By the time, the demolition order was passed, the land had been converted from dhani doym (agricultural) to bastu. Thus, the demolition order passed by the Sub-Divisional Officer and the direction of the BDO asking the appellant to vacate the premises, should have been set aside by the learned court. Lastly, it was submitted that the court of equity should take into consideration the fact that the appellant was a poor villager, who had somehow constructed the one-storeyed residential house for his family, with financial help from his near relatives.

5. Right to shelter was an inherent right and in support of his contention, he relied on the decision of the Hon'ble Apex Court in the matter of ***Re: Directions In The Matter of Demolition of Structures*** decided in ***Writ Petition(S) (Civil) No(S). 295 of 2022***. It was submitted that, a house was an embodiment of the collective hopes of the family members. It provided security and stability. The executive could not be permitted to take away the shelter of the family, except in accordance with law.

6. Mr. Saikat Banerjee, learned Senior Advocate appearing for the respondent No. 8 drew our attention to the order of the Division Bench passed in FMA No. 135 of 2024 dated June 9, 2025. Mr. Banerjee urged this court to dismiss the appeal with cost, on the ground that similar challenges were thrown to the actions taken by the Sub-Divisional Officer with regard to demolition of the construction, and the appellant was unsuccessful throughout. The Special Leave Petition arising out of the order dated June 9, 2025 was dismissed. The Hon'ble Division Bench had clearly recorded that not only the construction was raised without sanction from the Gram Panchayat, but the same was erected on agricultural land. Mr. Banerjee further submitted that the review application being RVW 149 of 2026 from the order of the Division Bench dated June 9, 2025 was dismissed on July 24, 2026, with cost.

7. Considered the rival submissions of the parties.

8. The genesis of the demolition proceeding dates back to an order dated November 26, 2021, passed in WPA No. 17706 of 2024. The respondent No. 8

had filed the said writ petition alleging that the appellant has raised a construction on a portion of an undivided property situated at Plot No. 44 of Mouza Khudmorai pertaining to LR Khatian No. 3/3, 16/1 and 78/1, J.L.No. 232, Police Station- Nayagram, District Jhargram, without complying with the law. The writ court had directed the Jamirapal Gram Panchayat to act and proceed in accordance with law, on the basis of the complaint. The court directed an inspection to be held in the presence of the parties and a hearing was directed to be granted to the interested parties, thereby, allowing them the liberty to adduce oral and documentary evidence. The panchayat authorities were also directed to take the proceeding to its logical conclusion. According to Mr. Banerjee, the plea of deemed sanction had not been accepted by the writ court. On the direction passed in the said writ petition, proceedings were initiated and upon conclusion of the hearing held by the concerned gram panchayat it was held that the appellant had raised an illegal construction, without any sanction and the said construction was liable to be demolished. The matter was then sent to the Sub-Divisional Officer for necessary steps under Section 23(5) of the West Bengal Panchayat Act, 1973 (hereinafter referred to as the 'said Act'). Alleging inaction on the part of the Sub-Divisional Officer, the respondent No. 8 filed another writ petition being WPA No. 2 of 2023. The said writ petition was disposed of with a direction upon the Sub-Divisional Officer, Jhargram to act and proceed in terms of Section 23(5) of the said Act and conclude the matter upon coming to a specific finding with regard

to the nature of the construction. Such conclusion was directed to be arrived at, upon hearing the parties.

9. By an order dated February 20, 2023, the Sub-Divisional Officer held that, it was evident that the appellant did not obtain any prior written permission from the concerned gram panchayat, before making the construction. Rather, he made a prayer before the Pradhan vide an online application on January 9, 2023, for grant of a post-facto approval for the said construction. The Sub-Divisional Officer held that under the provisions of the said Act, post-facto approval could not be granted. The order of demolition was passed by the SDO in respect of the construction of the appellant on Plot No. 44 of Mouza Khudmorai, J.L. No. 232 under Nayagram Police Station. The order was to be effected within 6 weeks from the date of communication. The BDO, Nayagram was directed to cause service of the order upon the appellant, at the earliest. The order of the Sub-Divisional Officer dated February 20, 2023 was challenged by filing WPA No. 12711 of 2023. A learned Single Judge noted the issue of deemed sanction and held that the construction was not as per law, as there was no formal order from the panchayat authority, permitting the appellant to raise the construction. The order dated October 4, 2023 passed in WPA 12711 of 2023 was challenged by filing an appeal being FMA No. 135 of 2024. The appeal was dismissed. It was held that the construction was not only effected without sanction, but also without conversion. The Special Leave Petition arising out of the said order passed in the appeal was also dismissed.

A review application was filed being RVW No. 149 of 2026 challenging the order dated June 9, 2025 passed in FMA 135 of 2024, after dismissal of the Special Leave Petition. In the review application, the Division Bench observed that the appellant did not show any respect for the law and much less for judicial proceedings. Therefore, the review application was dismissed upon imposition of cost of Rs. 21,000/-.

10. It was submitted by Mr. Galib that the appellant had intended to file a Special Leave Petition challenging the order passed in review. He prayed for stay of the demolition on the ground that, the situation would become irreversible if the construction is demolished even before the Special Leave Petition is filed.

11. In this case, the application for grant of sanction was made on August 2, 2021 and the application for change of classification of the land was made on September 19, 2022, which stood allowed on October 20, 2022. Before such conversion, the construction was already made. A learned Single Judge did not find any infirmity with the order of the Sub-Divisional Officer and the Sub-Divisional Officer was directed to cause a spot inspection to ascertain whether there was any unauthorised construction on the self-same plot i.e. whether the construction was without permission and without conversion. By an order dated August 21, 2024, the Sub-Divisional Officer held that the structure had been constructed prior to the formal conversion and grant of permission. Thus, the construction should be demolished within six weeks. The BDO was directed

to cause service of the order upon the appellant and also upon the respondent No. 8, at the earliest.

12. By an order dated November 26, 2021, a writ court, on the complaint of the respondent No. 8 that the Panchayat authorities had not taken any action against the unauthorised construction, directed as follows :-

“Having considered the rival contentions of the respective parties, the writ petition is disposed of with a direction upon the competent authority of the concerned Gram Panchayat to act and proceed in accordance with law. An inspection shall be held in the presence of the parties. As copy of the inspection report shall be supplied to the respective parties. Thereafter the parties shall be allowed to adduce oral and documentary evidence, as the case may be. In order to substantiate their claims. On the basis of what transpires at the inspection, a hearing shall be given to the petitioner as also the respondent No. 7. A reasoned order shall be passed and communicated to all concerned. Needless to mention that the Panchayat authorities shall reach the proceedings to its logical conclusion. In accordance with law.

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

It is categorically stated that the authorities will restrict its proceedings only to the question of unauthorised construction, that is, whether the construction has been made in the absence of sanction plan or in deviation thereof. The question of title, encroachment, etc. shall not be gone into by the authorities.

The petitioner is granted liberty to approach the appropriate authority on the allegation of illegal conversion of the user of the land.

This writ petition is, thus, disposed of.”

13. On the basis of such direction, the panchayat authorities carried out the inspection and held a hearing. Thereafter, the following decision was passed.

“Heard the submission of the petitioner. Perused the documents filed by the petitioner. I have gone through the writ petition and Hon’ble Court’s order. Consider the Inspection report dated 22.04.2022 as per the Hon’ble Court’s order.

It appears that the Private Respondent No. 7 in the writ petition has constructed a one storied pucca building by erecting the concrete pillar measuring about 37 ft in length and 30 ft in width i.e. 1110 sq. ft. (103 sq. meter approximate) on L.R. Plot No. 44, J.L. No. 232, Mouza – Khudmorai which is a unpartitioned property and agricultural land in nature. It appears from the annexure “P-3” (Page No. 37 – 42) of the writ petition that the construction was started in the year 2016 by filling the said portion of the land illegally and without any conversion order from the appropriate authority. Before construction of the building no application was made by the private respondent for taking prior permission from the Gram Panchayet. No building plan was submitted by the private respondent for sanctioning before the Gram Panchayet. Moreover, it appears from the two reply under RTI Act filed by the petitioner that the above land has not been converted from agricultural land to bastu land and no plan has been sanctioned for construction of the alleged building in favour of private respondent No. 7 namely Sri Agasti Charan Ghosh from our Gram Panchayet. On perusal of our office record/ register it appears that no prior permission has been accorded for construction of the alleged building from our Gram Panchayet and no plan has been sanctioned from our G.P. In favour of private respondent No. 7 namely Sri Agasti Charan Ghosh for construction of the alleged building.

On the basis of the inspection report dated 22.04.2022, I conclude the hearing and order that the alleged construction carried out by the private respondent No. 7 namely Sri Agasti Charan Ghosh in the writ petition on L.R. Plot No. 44, J.L. No. 232, Mouza _ Khudmorai is illegal, unauthorised and without any sanctioned plan and the said illegal construction is liable to be demolished without any further delay.

Thus the case is disposed of.”

14. In WPA No. 2 of 2023, a writ court passed the following order :-

“The petitioner alleges inaction on the part of the Sub-Divisional Officer, Jhargram. Upon coming to a finding of unauthorized construction on L.R. Plot No.44 of Mouza-Khudmorai, the panchayat authorities referred the matter to the Sub-Divisional Officer for further steps under

Section 23(5) of the West Bengal Panchayat Act, 1973 (hereinafter referred to as the 'said Act'). Such step was taken by the panchayat authorities on July 29, 2022.

It is alleged that till date, the Sub-Divisional Officer has not taken any steps. The petitioner relies upon a reply given by the SPIO and the Revenue Officer, Nayagram which indicates that no conversion of land had taken place.

The panchayat authorities came to a finding that the construction was in violation of Section 23 of the said Act and also Rule 26 of the West Bengal Panchayat (Gram Panchayat Administration) Rules, 2004.

Moreover no permission for construction could be granted by the panchayat authorities unless the land on which such construction was made had been converted to Bastu.

Mr. Ganguli raises the question of deemed sanction.

The Sub-Divisional Officer, Jhargram is directed to act and proceed in terms of Section 23(5) of the said Act and conclude the matter upon coming to a specific finding. Such conclusion shall be arrived at upon hearing the parties. The parties are at liberty to make their submissions before the authority. A reasoned order shall be passed and communicated to the parties. Thereafter, follow up steps shall be taken in accordance with law.

The police report filed in Court is taken on record.

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

Accordingly, the writ petition is disposed of."

15. On the basis of the direction of the writ court, the Sub-Divisional Officer held an inspection in the presence of the parties and also held a hearing. After considering the inspection report and upon hearing the parties and the gram panchayat, it was held that the construction was unauthorised and as such, should be demolished. Relevant portion of the order of the Sub-Divisional Officer is quoted below :-

“The hearing was scheduled on 20-02-2023 at 11 am by serving notice upon both the parties along with concerned officers.

The hearing started as per schedule.

The private respondent namely Shri Agasti Charan Ghosh was present; all others, including the petitioner namely Shri Khagendra Nath Ghosh, remained absent.

He submitted the following documents.

- 1. A certificate issued by the BL&LRO, Nayagram dated 20-10-2022 stating conversion of the land referred above from Dhani Doyem to Bastu.*
- 2. A certificate vide Memo No. 1677, dated 02-08-2021 issued by the Pradhan, Jamirapal GP stating his no objection for conversion of the land referred above.*
- 3. His application to the Pradhan, Jamirapal Gram Panchayat dated 02-08-2021 in Form 4A for approval of building plan.*
- 4. An online receipt of house building application dated 09-01-2023.*

By perusal of the above documents and from oral submissions by the private respondent, it was evident that the private respondent namely Shri Agasti Charan Ghosh did not obtain any prior written permission for making any construction on Pot No. 44 at Mouza Khudmorai (JL No. 232) under Nayagram Police Station from O/o Jamirapal Gram Panchayat i.e. the appropriate authority as per Section 23(1) of the West Bengal Panchayat (Amendment) Act, 2017. Rather, he made a prayer before the Pradhan, Jamirapal Gram Panchayat vide prescribed online application dated 09-01-2023 for granting post facto approval of the construction already made by him.

This is also to make it clear that there is scope in the West Bengal Panchayat Act, 1973 and/ or its subsequent amendments for granting post facto approval for house building.

Therefore, in compliance with the solemn order of the Hon’ble Justice Shampa Sarkar of the High Court at Calcutta, passed on 11-01-2023 in disposing of the WPA No. 2 of 2023 and as per provision of Section 23(5) of the West Bengal Panchayat (Amendment) Act, 2017. I, the Sub-Divisional Officer, Jhargram Sadar Sub-Division, do hereby direct the private respondent namely Shri Agast Charan Ghosh, S/o Late Durjodhan Ghosh, residing at Village Khudmorai, PO Jamirapal, PS Nayagram, Dist. Jhargram, to demolish the unauthorized construction made by him on Plot No. 44 at Mouza Khudmorai (JL No. 232) under Nayagram Polling Station, within six weeks of communication of this order.

The Block Development Officer, Nayagram is directed to cause service of this order upon the respondent at the earliest and to send a report immediately after expiry of given time period about compliance of this order by the respondent.

Copy of this order is to be communicated to all concerned.”

16. It is a matter of record that the conversion certificate was issued on October 20, 2022, after the construction had been made. Under the Rule 26 of the 2004 Rules, the gram panchayat was mandated by law to withhold permission for erection or construction, until the person proposing to raise the construction could produce an order from the appropriate authority allowing the change of classification of the land to homestead land. Thus, in this case, the Rule operated as a bar for grant of permission and as such, the gram panchayat withheld such permission. The provision of deemed sanction could not be invoked in this case. Here, silence was not acquiescence or waiver. Silence of the gram panchayat was an act of withholding permission in compliance of Rule 26 of the 2004 Rules.

17. Moreover, the provision of deemed sanction has not been statutorily provided under the said Act. Section 23 of the said Act is quoted below :-

“23. Control of building operations. – [(1) No person shall erect any new structure or new building or make any addition to any structure or building having plinth area of not more than 150 square metres and height not more than 6.5. metres in any area within the jurisdiction of a Gram Panchayat except with the previous permission in writing from the Gram Panchayat:

Provided that where the State Government or an authority or agency under the State Government intends to set up or has set up an industrial estate or industrial park within the jurisdiction of a Gram

Panchayat, permission for erection of any structure or building or any addition to the structure or building for setting up an industry within such industrial estate or industrial park, shall be obtained from such authority or industrial development authority or corporation as the State Government may, by notification, specify:

Provided further that such erection of a new structure or a new building or such addition to any structure or building or such permission from the Gram Panchayat shall be subject to such rules as may be made by the State Government in this behalf :

Provided also that a Gram Panchayat shall not accord permission for erection of a new structure or construction of a new building, if the proposal for such erection or construction, as the case may be, --

- (a) has any provision for erection or construction of any dry latrine, by whatever name called, and*
- (b) does not have any provision for erection or construction of a sanitary latrine of any description.]*

[(2) Every person seeking permission under sub-section (1), shall make an application in writing to the Gram Panchayat in such form, containing such particulars and on payment of such fee to the Gram Panchayat, as may be prescribed :

Provided that no amount in whatever name or manner other than the fees prescribed by the State Government, shall be charged by the Gram Panchayat for according permission :

Provided further that there shall be no restriction of covered area on construction of Kuchcha and semi-pucca residential building which shall mean a single storeyed building not having concrete roof and brick wall with setback of not less than nine-tenth metre on the road side :

Provided also that no permission under sub-section (1) shall be necessary subject to submission of a self-declaration for erection of any new thatched structure, tin shed or tile shed without brick wall covering an area not exceeding eighteen square metres where such structure or shed does not cover more than three fourth of the total area of the land (including appurtenant land) and there is a setback of not less than nine-tenth metre on the road-side:

Provided also that the State Government may, by order, exempt any structure or building or any class of structures or buildings from the operation of the provisions of sub-section (1) and of this sub-section :

Provided also that if the building plan contains a proposal for construction of a structure for rain water harvesting on its roof, the Gram Panchayat shall allow a rebate in paying fee for permission under sub-section (1) to the applicant at such rate as may be determined by the State Government.]

[(3) On receipt of such application the Gram Panchayat, after making such enquiry and examination of the building plan as it considers necessary and in accordance with such rules as may be made by the State Government in this behalf, shall, by order in writing, either grant the permission or refuse it, recording in the case of refusal the reasons therefor.]

[(4) Any person aggrieved by an order of the Gram Panchayat under sub-section (3) refusing permission or non-receipt of any intimation in this regard within the stipulated time as may be prescribed, may prefer an appeal to such appellate authority as may be prescribed:

Provided that any person aggrieved by an order of the authority may prefer an appeal before the reviewing authority as may be prescribed:

Provided further that no appeal shall lie against the order of the reviewing authority.]

[(5) Where any new structure or new building or any addition to any structure or building is being or has been erected or made, as the case may be, in contravention of the provisions of sub-section (1), the permission granting authority shall refer the matter to the Sub-Divisional Officer concerned who may after giving the owner of such building an opportunity of being heard, make an order directing the demolition of the building or a portion of the building, as the case may be, by the owner within such period as may be specified in order and in default, the Sub-Divisional Officer may itself effect the demolition and impose a fine as may be specified by the State Government and recover the cost thereof from the owner as a public demand.]

(6) Where any new structure or new building or any addition to any structure or building is being or has been erected or made, as the case may be, in contravention of the provisions of sub-section (1), the authority may, after giving the owner of such building an opportunity of being heard, make an order directing the demolition of the building by the owner within such period as may be prescribed in the order and in default the authority may itself effect the demolition and recover the cost thereof from the owner as a public demand.”

18. The contention of Mr. Galib that Rule 30 of the 2004 Rules would be applicable as the panchayat authorities did not communicate any decision either permitting or refusing the sanction, is not legally sustainable. Even upon perusal of the Rule, it appears that the appellant was required to intimate the gram panchayat that he was going to erect the structure or building by conforming to the building plan or the site plan which had been furnished by him along with the application. In this regard Rule 26 and 30 are quoted below :-

“26. Classification of land for construction. – *If any structure of building is proposed to be erected or constructed on any land recorded otherwise than as homestead land, the Gram Panchayat shall withhold permission for such erection or construction until the applicant produces an order allowing change of classification of the said land by the Collector or any other competent authority having jurisdiction under any law for the time being in force.*

30. Right of applicant if the permission or refusal is not communicated within time-limit. – *[If permission or refusal under sub-rule (1A) and sub-rule (5) of rule 27, rule 28 or rule 29, as the case may be, has not been communicated by the Gram Panchayat within the prescribed time limit, it shall be presumed the Gram Panchayat has accorded such permission and the applicant shall after an intimation to the Gram Panchayat can erect any structure or building conforming to the building plan and the site plan furnished by him along with the application.]*

19. Nothing has been produced in the proceedings, which would show that before raising the construction by invoking Rule 30 (the deeming provision), the appellant had informed the gram panchayat that in view of the prolonged

silence of the gram panchayat, the appellant would commence his construction on the basis of the building plan and site plan.

20. Moreover, the Hon'ble Division Bench in FMA 135 of 2026, held as follows :-

"7. In that view of the matter, the decision of the Sub-Divisional Officer, Jhargram dated 20th February, 2023 directing unauthorized construction made by the appellant was not interfered with by the learned Single Judge of this Court.

8. This Court sees no reason to interfere with the order of the learned Single Judge of this Court.

9. Not only has the appellant effected construction without sanction from the Gram Panchayat Authority but has also effected construction on agricultural land even before its conversion to a Bastu land.

10. The learned Single Judge of this Court on the prayer of the appellant has also directed an enquiry into the construction made by the private respondent / brother of the appellant and directed the Sub-Divisional Officer, Jhargram to take steps in accordance with law.

11. In view of the above, this Court is of the view that the impugned order dated 4th October, 2023 calls for no interference.

13. F.M.A 135 of 2024 shall stand dismissed.

13. There will be no order as to costs."

21. We are a co-ordinate Bench and we do not find any reason to differ with the observations of Their Lordships. In the review application, the Hon'ble Division Bench once again held as follows :-

"8. This Court has carefully heard the arguments advanced by the review applicant Mr. Galib and the learned counsel Mr. Saikat Banerjee for the respondents. This Court's mind is not free from doubt that the petitioner's guilty of material suppression of fact, misstatement thereof and a clear attempt to mislead this Court.

9. Firstly, the petitioner could not have applied for any sanction plan on the property without converting the land from agricultural to residential. The hand written letter dated 2nd August, 2021 appears ex facie to be fictitious and fraudulent. The petitioner as on the said date had not even applied for conversion of his land from agricultural to residential. The application was made admittedly on 29th October, 2021.

10. In the light of the above, this Court is of the view that the review applicant and the writ petitioner/original appellant have no respect to law much less judicial proceeding. This Court is, therefore, inclined to dismiss the review application being RVW 149 of 2026 with exemplary costs assessed at Rs. 21,000/- payable by the review applicant to the Jamirapal Gram Panchayat.

11. In default of making payment within a period of one month from date, the concerned Panchayat shall be entitled to collect the said costs from the review applicant as arrears of revenue or under the Bengal Public Demands Recovery Act, 1913.

12. Consequently, CAN 2 of 2026 shall also stand dismissed.”

22. Under such circumstances, we are not inclined to interfere with the order impugned. The learned Single Judge rightly held that, in view of the order of the Hon'ble Division Bench, all consequential steps taken by the Sub-Divisional Officer and the BDO for demolition of the structure was valid and legal. We find that the BDO had granted adequate time to the appellant to vacate the premises. We hold that the multiple applications that the appellant has filed in respect of the same demolition process which commenced sometime in November, 2021 is an abuse of the process of court. Unauthorised constructions cannot be allowed to remain and must be demolished.

23. The decision in **Re: Directions In The Matter of Demolition of Structures** decided in **Writ Petition(S) (Civil) No(S). 295 of 2022** relied on by

Mr. Galib does not apply to the facts of this case, inasmuch as, adequate opportunity was given to the appellant to represent his case before the concerned authorities. Multiple representations were filed by the appellant which had all been disposed of against the appellant. The appeal court had also dismissed his appeal and the review application with cost. The order of the Division Bench directing demolition was not interfered with by the Hon'ble Apex Court. Moreover, the authorities also gave enough breathing time to the appellant to vacate the premises. Under such circumstances, reliance on the said decision is misplaced.

24. We refer to the following judicial authorities in support of our decision.

25. In the matter of **Dipak Kumar Mukherjee v. Kolkata Municipal Corpn.** reported **in (2013) 5 SCC 336**, the Hon'ble Apex Court held as follows:-

“29. It must be remembered that while preparing master plans/zonal plans, the Planning Authority takes into consideration the prospectus of future development and accordingly provides for basic amenities like water and electricity lines, drainage, sewerage, etc. Unauthorised construction of buildings not only destroys the concept of planned development which is beneficial to the public but also places unbearable burden on the basic amenities and facilities provided by the public authorities. At times, construction of such buildings becomes hazardous for the public and creates traffic congestion. Therefore, it is imperative for the public authorities concerned not only to demolish such construction but also impose adequate penalty on the wrongdoer.”

26. In the matter of **Supertech Ltd. v. Emerald Court Owner Resident Welfare Assn.**, reported in **(2021) 10 SCC 1**, the Hon'ble Apex Court held as follows:-

“159. The rampant increase in unauthorised constructions across urban areas, particularly in metropolitan cities where soaring values of land place a premium on dubious dealings has been noticed in several decisions of this Court. This state of affairs has often come to pass in no small a measure because of the collusion between developers and planning authorities.

160. From commencement to completion, the process of construction by developers is regulated within the framework of law. The regulatory framework encompasses all stages of construction, including allocation of land, sanctioning of the plan for construction, regulation of the structural integrity of the structures under construction, obtaining clearances from different departments (fire, garden, sewage, etc.), and the issuance of occupation and completion certificates. While the availability of housing stock, especially in metropolitan cities, is necessary to accommodate the constant influx of people, it has to be balanced with two crucial considerations — the protection of the environment and the well-being and safety of those who occupy these constructions. The regulation of the entire process is intended to ensure that constructions which will have a severe negative environmental impact are not sanctioned. Hence, when these regulations are brazenly violated by developers, more often than not with the connivance of regulatory authorities, it strikes at the very core of urban planning, thereby directly resulting in an increased harm to the environment and a dilution of safety standards. Hence, illegal construction has to be dealt with strictly to ensure compliance with the rule of law.”

27. In **Priyanka Estates International (P) Ltd. v. State of Assam** reported in **(2010) 2 SCC 27** the Hon'ble Apex Court, observed as follows:-

“55. It is a matter of common knowledge that illegal and unauthorised constructions beyond the sanctioned plans are on rise, may be due to paucity of land in big cities. Such activities are required to be dealt with by firm hands otherwise builders/colonisers would continue to build or construct beyond the sanctioned and approved plans and would still go scot-free. Ultimately, it is the flat owners who fall prey to such activities as the ultimate desire of a common man is to have a shelter of his own. Such

unlawful constructions are definitely against the public interest and hazardous to the safety of occupiers and residents of multi-storeyed buildings. To some extent both parties can be said to be equally responsible for this. Still the greater loss would be of those flat owners whose flats are to be demolished as compared to the builder.”

The Apex Court observed that if unauthorised constructions were allowed to stand or were “given a seal of approval by Court”, the public at large would be adversely affected.

28. In **EshaEkta Apartments Coop. Housing Society Ltd. v. Municipal Corpn.of Mumbai** reported in **(2013) 5 SCC 357**, the Hon’ble Apex Court observed as follows:-

“8. At the outset, we would like to observe that by rejecting the prayer for regularisation of the floors constructed in wanton violation of the sanctioned plan, the Deputy Chief Engineer and the appellate authority have demonstrated their determination to ensure planned development of the commercial capital of the country and the orders passed by them have given a hope to the law-abiding citizens that someone in the hierarchy of administration will not allow unscrupulous developers/builders to take law into their hands and get away with it.”

29. In the matter of **Supertech (Supra)**, the Hon’ble Apex Court discussed the duties of the civic bodies and lamented the sorry state of affairs as under:-

“167. The Court further observed that an unauthorised construction destroys the concept of planned development, and places an unbearable burden on basic amenities provided by public authorities. The Court held that it was imperative for the public authority to not only demolish such constructions but also to impose a penalty on the wrongdoers involved. This lament of this Court, over the brazen violation of building regulations by developers acting in collusion with planning bodies, was brought to the forefront when the Court prefaced its judgment with the following observations : (EshaEkta Apartments case [EshaEkta Apartments Coop. Housing Society Ltd. v. Municipal Corpn. of Mumbai, (2013) 5 SCC 357 : (2013) 3 SCC (Civ) 89] , SCC p. 363, para 1)

“1. In the last five decades, the provisions contained in various municipal laws for planned development of the areas to which such laws are applicable have been violated with impunity in all the cities, big or small, and those entrusted with the task of ensuring implementation of the master plan, etc. have miserably failed to perform their duties. It is highly regrettable that this is so despite the fact that this Court has, keeping in view the imperatives of preserving the ecology and environment of the area and protecting the rights of the citizens, repeatedly cautioned the authorities concerned against arbitrary regularisation of illegal constructions by way of compounding and otherwise.”

168. Finally, the Court also observed that no case has been made out for directing the municipal corporation to regularise a construction which has been made in violation of the sanctioned plan and cautioned against doing so. In that context, it held : (EshaEkta Apartments case [EshaEkta Apartments Coop. Housing Society Ltd. v. Municipal Corpn. of Mumbai, (2013) 5 SCC 357 : (2013) 3 SCC (Civ) 89] , SCC pp. 394-95, para 56)

“56. ... We would like to reiterate that no authority administering municipal laws and other similar laws can encourage violation of the sanctioned plan. The courts are also expected to refrain from exercising equitable jurisdiction for regularisation of illegal and unauthorised constructions else it would encourage violators of the planning laws and destroy the very idea and concept of planned development of urban as well as rural areas.”

169. These concerns have been reiterated in the more recent decisions of this Court in Kerala State Coastal Zone Management Authority v. State of Kerala [Kerala State Coastal Zone Management Authority v. State of Kerala, (2019) 7 SCC 248] , Kerala State Coastal Zone Management Authority v. Maradu Municipality [Kerala State Coastal Zone Management Authority v. Maradu Municipality, (2021) 16 SCC 822 : 2018 SCC OnLine SC 3352] and Bikram Chatterji v. Union of India [Bikram Chatterji v. Union of India, (2019) 19 SCC 161] .”

30. In the matter of **Kaniz Ahmed vs Sabuddin & Ors.** reported in **2025**

INSC 610, the Hon’ble Apex Court held as follows:-

“5. In one of our recent pronouncements, in the case of Rajendra Kumar Barjatya and Another v. U.P. Avas Evam Vikas Parishad and Others reported in 2024 INSC 990, we have made ourselves very explicitly clear that each and every construction must be made scrupulously following and strictly adhering to the rules and regulations. In the event of any violation, being brought to the notice of the courts, the same should be dealt with iron hands and any leniency or mercy shown to the person guilty of unauthorised construction would amount to showing misplaced sympathy.

6. The learned counsel appearing for the petitioner would submit that her client be given one chance to pray for regularisation of the unauthorised construction. We do not find any merit in such submission. A person who has no regards for the law cannot be permitted to pray for regularisation after putting up unauthorised construction of two floors. This has something to do with the rule of law. Unauthorised construction has to be demolished. There is no way out. Judicial discretion would be guided by expediency. Courts are not free from statutory fetters. Justice is to be rendered in accordance with law. We are at pains to observe that the aforesaid aspect has not been kept in mind by many State Governments while enacting Regularisation of Unauthorized Development Act based on payment of impact fees.

7. Thus, the Courts must adopt a strict approach while dealing with cases of illegal construction and should not readily engage themselves in judicial regularisation of buildings erected without requisite permissions of the competent authority. The need for maintaining such a firm stance emanates not only from inviolable duty cast upon the Courts to uphold the rule of law, rather such judicial restraint gains more force in order to facilitate the well-being of all concerned. The law ought not to come to rescue of those who flout its rigours as allowing the same might result in flourishing the culture of impunity. Put otherwise, if the law were to protect the ones who endeavour to disregard it, the same would lead to undermine the deterrent effect of laws, which is the cornerstone of a just and orderly society.[See: Ashok Malhotra v. Municipal Corporation of Delhi, W.P. (c) No. 10233 of 2024 (Delhi High Court)]”

31. Accordingly the appeal and the connected application are dismissed.

32. There is no further impediment on the part of the authorities to demolish the construction as per the direction of the Co-ordinate Bench. The interim

order stands vacated, with the delivery of this judgment. Authorities shall take immediate steps.

33. Urgent Photostat certified copies of this judgment, if applied for, be supplied to the parties upon fulfilment of requisite formalities.

(Shampa Sarkar, J.)

I agree.

(Arjun Ray Mukherjee, J.)

Later

34. Learned Advocate for the appellant prays for stay of operation of this order.

35. Considered such submission and stay is refused.

(Shampa Sarkar, J.)

I agree.

(Arjun Ray Mukherjee, J.)