

IN THE FORUM OF HON'BLE LOKAYUKTA WEST BENGAL

**Standard Assurance Building (Ground Floor)
32, BBD Bag, Kolkata – 700 001.**

**Present : Justice Rabindranath Samanta
Hon'ble Lokayukta, West Bengal**

Case Reference No. : LWB/64/2008

**Smt. Bharati Halder (Dead),
represented by her husband, Arabinda Halder,
Mathurapur Rice Mill (Station),
P.S. – Mathurapur, P.O. – Mathurapur,
Dist. – South 24-Parganas,
PIN – 743 354.**

... Complainant

-Vs -

- 1. Smt. Manashi Halder,
Wife of Sri Manish Halder,
Ex-Pradhan,
Chandpur-Chaitanyapur Gram Panchayat.
Presently residing at Village – Chandpur,
P.O. – Chandpur, P.S. – Mandirbazar,
District – South 24-Parganas.**
- 2. Sri Ajit Naskar,
Ex-Upa-Pradhan,
Chandpur-Chaitanyapur Gram Panchayat
Presently residing at Village – Mirzanagar,
P.O. – Chaitanyapur, P.S. – Mandirbazar,
District – South 24-Parganas.**

... Respondents.

**Report after investigation u/s 12(1), the West Bengal Lokayukta
Act, 2003.**

Dated, Kolkata, 17th day of June, 2026.

This proceeding portrays plight of helplessness of a woman who moved from pillar to post seeking removal of an illegal construction raised on her land by a neighbour of her. She made appeal to Gram Panchayat, local police station, Sub-Divisional Officer, the Superintendent of Police and other Forum seeking relief from them ventilating her simmering grievances, but no response echoed from any quarter. Ultimately, she approached this Forum by filing a complaint supported by an affidavit.

On the basis of the complaint received from the complainant, Smt. Bharati Halder, this case has been registered. Soon thereafter, this Forum conducted a preliminary enquiry and during the preliminary enquiry, the complainant Bharati Halder was examined on oath and her deposition was recorded in separate sheet. Besides, during the preliminary enquiry, her husband Arabinda Halder was also examined on oath and his deposition was recorded.

During the pendency of the instant proceeding, Bharati Halder died, allegedly by committing suicide. On her death, her husband Arabinda Halder has been permitted to continue the proceeding.

Initially, on the basis of the complaint, this proceeding was started against Smt. Manashi Halder, Ex-Pradhan, Chandpur-Chaitanyapur Gram Panchayat, Sri Ajit Naskar, Ex-Upa-Pradhan of the Gram Panchayat and Sri Muktaram Naskar as a Member of the Gram Panchayat. However, from the deposition of Respondent No. 2, Ajit Naskar, Ex-Upa-Pradhan who has been examined as RW-1 to defend himself, it appears that Muktaram Naskar was never a Member of the Gram Panchayat. In fact, Bedana Naskar, wife of Muktaram Naskar was a Member of the Gram Panchayat. Accordingly, by order dated 07.04.2026, the name of Muktaram Naskar has been struck out from the cause title.

Background facts which led to the filing of the complaint may be summed up as under :

The complainant Bharati Halder, since deceased, purchased $2\frac{2}{3}$ decimals of land at Village Digberia, P.S. – Mandirbazar, South 24-Parganas in the year 1989. Her husband Arabinda Halder had $\frac{1}{3}$ decimal of land by inheritance at the same Village Digberia. She alleged that Debendra Nath Halder, a neighbour of her attempted to raise a pucca construction on her land forcibly. As such, she made a complaint with Mandirbazar Police Station on 11.05.2008 and her complaint was diarized vide G.D. Entry No. 537 dated 11.05.2008. On the same date i.e. 11.05.2008, she made a complaint with the Pradhan, Chandpur-Chaitanyapur Gram Panchayat. But, no step was taken on behalf of Chandpur-Chaitanyapur Gram Panchayat to stop the illegal construction, rather the respondents Smt. Manashi Halder, then Pradhan of Chandpur-Chaitanyapur Gram Panchayat and Respondent No. 2, Sri Ajit Naskar, then Upa-Pradhan of the Gram Panchayat, fully assisted Debendra Nath Halder to complete the construction of a room on the land illegally. She met the Pradhan and Upa-Pradhan on several occasions and made earnest appeal to them to stop the illegal construction, but to no effect. The complainant alleged that the respondents did not take any step in that regard because of political motivation. The respondents, out of political interest, influenced the concerned police official of Mandirbazar Police Station to prepare Police Report sans truth and according to their wishes. She requested Muktaram Naskar, the husband of Bedana Naskar, then a Member of the said Gram Panchayat to take up the matter with the Pradhan of the Gram Panchayat, so that the issue might be resolved on compromise. But, he turned deaf ears to her request. Ultimately, Debendra Nath Halder completed the illegal construction on her land to the very knowledge of the respondents and beside a public road. But, none of the respondents made any endeavour to stop the illegal construction and redress her grievances.

For the purpose of removal of the illegal construction from her land, the complainant approached different authorities, but to no effect.

As noted above, soon after registration of this case, this Forum examined Bharati Halder as Witness No. 1 and her husband Arabindra Halder as Witness No. 2 on oath and their deposition has been recorded in separate sheets. On the basis of the deposition of the complainant, a photocopy of a registered Sale Deed dated 19.08.1989, photocopies of Police Report, photocopies of certified copies of orders in connection with a proceeding u/s 144(2), Cr.PC and other connected documents, a photocopy of a complaint made with the Pradhan, Chandpur-Chaitanyapur Gram Panchayat have been marked as Exhibits A, B series and C respectively.

On consideration of the evidence of the witnesses and the exhibited documents as above, this Forum vide order dated 16.02.2009 has recorded finding that *prima facie* the allegations in the complaint have been substantiated and as such this Forum forwarded a copy of the complaint together with copies of depositions and copies of exhibited documents to the Sabhadhipati, Zila Parishad, South 24-Parganas along with a copy of the order dated 16.02.2009 seeking his comments in the matter of approval of holding a full-fledged investigation into the complaint. By the same order, this Forum directed the respondents to file statement of defence in writing supported by affidavit.

As no Lokayukta was appointed during the period from 18.02.2009 to 10.01.2019, this Forum remained vacant and as such, this matter did not proceed further.

However, after appointment of next Lokayukta on 11.01.2019, the matter was taken up for its further progress. In course of further proceeding, Smt. Anita Paik, the present Pradhan of Chandpur-Chaitanyapur Gram Panchayat, Mr. Masud Raihan, Block Development Officer, Mandirbazar, Mr. Amalesh Ghosh, Block Land & Land Reforms Officer, Mandirbazar, were examined as Witness Nos. 3, 4 and 5. Thereafter, Mr. Dhrubajyoti Pramanik, Deputy Magistrate, Diamond Harbour, representing the Sub-Divisional Officer, Diamond Harbour was

examined as Witness No. 6. The Reports received from the Block Development Officer, Mandirbazar, Block Land & Land Reforms Officer, Mandirbazar and the Sub-Divisional Officer, Diamond Harbour have been kept on record for its consideration during preparation of the Report.

Be it noted that in response to the direction passed by this Forum seeking comments from the Sabhadhipati, Zila Parishad, South 24-Parganas in the matter of approval of full-fledged investigation, the Additional District Magistrate & Additional Executive Officer, South 24-Parganas, Zila Parishad vide memo dated 16.03.2022 informed this Forum through the Learned Registrar that he directed the Block Development Officer, Mandirbazar Development Block to submit a Report and the Report received from the Block Development Officer was annexed to the memorandum. Since no specific comment as regards approval of the full-fledged investigation was received from the Sabhadhipati, Zila Parishad, this Forum vide order dated 02.02.2026 has observed that the office of the Zila Parishad informed this Forum that as regards the allegations in the complaint, necessary steps were being taken against the wrong doers and since the communication received from the office of the Zila Parishad does not negate approval to this Forum to conduct a full-fledged investigation into the complaint, it shall be deemed that the office of the Zila Parishad has impliedly given approval to this Forum to hold a full-fledged investigation into the complaint. That being so, this Forum, proceeded to investigate into the complaint in a full-fledged manner.

By order dated 18.02.2026, each of the respondents was directed to offer his/her comments on the complaint in writing and appear before this Forum on 10.03.2026 for examining them and recording their statement. Despite service of notice upon the Respondent No. 1, Smt. Manashi Halder, Ex-Pradhan of Chandpur-Chaitanyapur Gram Panchayat, she did not prefer to appear before this Forum on 10.03.2026, nor she filed any statement in writing in her defence. By the order dated 10.03.2026, the Respondent No. 2, Sri Ajit Naskar, Ex-Upa-

Pradhan upon whom notice could not be served, was directed to appear before this Forum on 07.04.2026 for his examination and filing his comments in writing in defence. On 07.04.2026, he appeared before this Forum, but he did not file any comment in writing in his defence. However, on 07.04.2026, he was examined on oath and his statement has been recorded in a separate sheet.

The portion of land upon which the illegal construction allegedly raised by Debendra Nath Halder, situates on the middle of plot no. 2210 within Mouza – Chandpur, South 24-Parganas. This portion of land admeasures $2\frac{2}{3}$ decimals. The complainant Bharati Halder, since deceased, claimed that she purchased this $2\frac{2}{3}$ decimals of land out of plot no. 2210 by virtue of a registered Sale Deed dated 19.08.1989 from Aniruddha Halder, son of Late Gangadhar Halder and Panchali Halder, wife of Aniruddha Halder. It appears from a photocopy of the registered Deed of Conveyance dated 19.08.1989 (Exhibit-A) that Bharati Halder purchased this portion of land from Aniruddha Halder and Panchali Halder.

As stated above, the complainant, in her complaint, alleges that her neighbour Debendra Nath Halder on 11.05.2008 made an attempt to raise a pucca construction on her land and in that regard she made a complaint with the Officer-in-Charge of Mandirbazar Police Station and her complaint was diarized as Mandirbazar PS G.D. Entry No. 537 dated 11.05.2008. She made appeal in writing to the Pradhan, Chandpur-Chaitanyapur Gram Panchayat requesting the Pradhan to take step so that no illegal construction took place on her land. But, instead of stopping the illegal construction, Smt. Manashi Halder, Ex-Pradhan of Chandpur-Chaitanyapur Gram Panchayat and Sri Ajit Naskar, Ex-Upa-Pradhan of the Gram Panchayat, fully assisted the wrong doer Debendra Nath Halder to complete the illegal construction on her land.

On 16.02.2009, the complainant Smt. Bharati Halder and her husband Arabinda Halder were examined on oath by this Forum and their statements

recorded in separate sheets are on record. The relevant portion of deposition of Bharati Halder, since deceased, may be reproduced as under :

“The sum and substance of my allegation is that on the land owned by me on which a dilapidated room was there at Mathurapur Rice Mill, one Debendra Nath Halder of Village – Digberia illegally, unauthorisedly and forcefully made a construction upon my land. The construction is wholly illegal and no permission and sanction has been obtained by the said Debendra Nath Halder from the Panchayat.

My grievance is that although I have brought such illegal act of said Debendra Nath Halder to the notice of both the Pradhan and Upa-Pradhan of Chandpur-Chaitanyapur Gram Panchayat, no step whatsoever has been taken by them against such miscreant Debendra Nath Halder. Several diaries to the local police station have been of no avail.

The land in question is plot no. 2210, Khatian No. 177, Mouza – Chandpur, J.L. No. 161, Dist. – South 24-Parganas. The aforesaid plot of land recorded as “Danga” measuring 7 decimals out of which by a registered deed dated 19.08.1989, $2\frac{2}{3}$ Satak was transferred to me by Sri Aniruddha Halder, Smt. Panchali Halder.

I filed herewith a copy of the registered deed.

{Let the Xerox copy of the relevant document be marked as Exhibit A for identification and be kept with the record. The original be returned to the complainant for keeping the same in safe custody and to be produced as and when called for}.

Such Sri Debendra Nath Halder in 2006 first attempted to make construction on land and when an application was made u/s 144 of Cr.PC before the Learned Executive Magistrate in which a report was submitted by the police in my favour.

I filed herewith Xerox copies of the Order Sheet along with Police Report.

{Let the Xerox copy of the relevant document be marked as Exhibit B(1) and Exhibit B(2) for identification and be kept with the record. The originals be

returned to the complainant for keeping the same in safe custody and to be produced as and when called for}.

At that point of time, Sri Sarat Ghosh was the concerned A.S.I. of Mandirbazar Police Station who made the enquiry and submitted such report.

Yes, I still reiterated that out of political motivation, the Pradhan and Upa-Pradhan did not take any step for such unauthorized construction against such Debendra Nath Halder.

This Panchayat before the last Panchayat Election was dominated by T.M.C. and both the Pradhan Smt. Manashi Halder, the Upa-Pradhan Sri Ajit Naskar were in such Board. After the constitution of the present Board, still it is dominated by the T.M.C. and Sri Ajit Naskar who belongs to T.M.C. is the Upa-Pradhan. At present, Sri Manish Halder, husband of previous Pradhan is the Pradhan who also belongs to the same party.

Sri Debendra Nath Halder who was the miscreant and made such unauthorized illegal construction on my land also belonged to the same party to which the said Pradhan and Upa-Pradhan belonged. He has got fifteen numbers of family members who are all voters. It is because of such reason, the Pradhan and Upa-Pradhan despite knowing the fact that Debendra Nath Halder made such illegal and unauthorized construction did not take any step against him as Debendra Nath Halder belongs to the same party and the Upa-Pradhan Sri Ajit Naskar does not want to loose such vote bank.

I have made several times oral representation to the Pradhan and Upa-Pradhan, but the same were of no avail.

Yes, I also made written representation to the Pradhan and Upa-Pradhan. I filed herewith a copy of the written representation to the Upa-Pradhan made on 10.05.2008.

{Let the Xerox copy of the relevant document be marked as Exhibit C for identification and be kept with the record. The original be returned to the complainant for keeping the same in safe custody and to be produced as and when called for}.

I also made representation to the Sub-Divisional Officer, Diamond Harbour, to the Superintendent of Police, South 24-Parganas and to the SDPO.

I filed herewith a copy of the representation made to the Sub-Divisional Officer and a copy of the representation to the Superintendent of Police, South 24-Parganas.

{Let the Xerox copy of the relevant document be marked as Exhibit D(1) and Exhibit D(2) for identification and be kept with the record. The originals be returned to the complainant for keeping the same in safe custody and to be produced as and when called for}.”

Arabinda Halder, husband of Bharati Halder, in his deposition, recorded on 16.02.2009 corroborates the oral testimony of his wife. In addition to that, he says that after they filed the proceedings u/s 144(2) Cr.PC before the Learned Executive Magistrate, Diamond Harbour against the inaction of police, the police and Panchayat filed four criminal cases against his family and even against his younger daughter who then was a student of 1st year in English (Honours) in Kalyani College and who at that time stayed at his house at Mathurapur Rice Mill.

Photocopies of certified copies of the proceeding u/s 144(2) Cr.PC, photocopies of certified copies of orders passed in the proceeding from time to time, the police report in connection with the proceeding have been marked as Exhibit B series. The Police Officer who was entrusted with the enquiry in connection with the proceeding u/s 144(2) Cr.PC in his report (Ext. B1) had reported that during enquiry, he found on examination of documents produced before him that the land purchased by complainant Bharati Halder situated on the middle of the plot and this portion of the plot of Bharati Halder was a vegetable ground. Debendra Nath Halder encroached a portion of the land of the complainant and as such there was every chance of breach of peace at the locality. This police report also corroborates the allegations in the complaint of the complainant that Debendra Nath Halder attempted to raise an illegal pucca construction on the land of the complainant in the month of May, 2008.

As it is evident from the deposition of the complainant and her husband and the documents on record, the complainant, getting no relief either from the Gram Panchayat or from the local police station or from the Sub-Divisional Officer, Diamond Harbour, Arabinda Halder, the husband of the complainant, filed a Writ Petition being WP No. 8250(W) of 2012 against the State of West Bengal and Private Respondent Debendra Nath Halder in the Hon'ble High Court, Calcutta. By order dated 28.04.2014, the Hon'ble High Court disposed of the Writ Petition by passing the following direction :

“Having heard the learned advocates for the parties and upon perusing the instant application as well as the report in the form of an affidavit filed earlier in Court on behalf of the concerned State respondent, it appears that approval of the local Gram Panchayat for construction of a dwelling house by the Private Respondent No. 9 was neither found available with the said Private Respondent nor was able to produce the same before the Block Development Officer, Mandirbazar Development Block, South 24-Parganas.

In such circumstances, the Writ Petition is disposed of with a direction upon the Pradhan of Chandpur-Chaitanyapur Gram Panchayat situated in the District of South 24-Parganas, to take appropriate steps against the Private Respondent No. 9 in accordance with law.”

As noted above, during preliminary enquiry conducted by this Forum, this Forum examined Anita Paik, the present Pradhan of Chandpur-Chaitanyapur Gram Panchayat, Mr. Masud Raihan, B.D.O, Mandirbazar and Mr. Amalesh Ghosh, BL&LRO, Mandirbazar as CW-3, CW-4 and CW-5 respectively.

Before we proceed further, it will be apposite to mention that as per Section 23(1) of the West Bengal Panchayat Act, 1973, no person shall erect any pucca structure except with the previous permission in writing from the Gram Panchayat. It appears from the deposition of Anita Paik, the present Pradhan of

the Gram Panchayat that Debendra Nath Halder raised a pucca construction on the land of the complainant illegally and without taking permission from Gram Panchayat. She states that after the Hon'ble High Court passed the order as above, Sundari Halder, the erstwhile Pradhan of Chandpur-Chaitanyapur Gram Panchayat, by a notice dated 02.09.2014 directed Debendra Nath Halder to demolish the illegal construction within fifteen (15) days, but to no effect. After she came to know of the order the Hon'ble High Court, she, by a letter dated 05.07.2024, directed Debendra Nath Halder to demolish the illegal construction within fourteen (14) days, but it also yielded no result. As it appears from the deposition of Mr. Masud Raihan, B.D.O., Mandirbazar as well as Smt. Anita Paik, the present Pradhan of Gram Panchayat, after Debendra Nath Halder failed to demolish the illegal construction, the Pradhan referred the matter to the S.D.O., Diamond Harbour u/s 23(5) of the West Bengal Panchayat Act, 1973 requesting him to demolish the illegal construction.

In such context, a report dated 27.06.2024 received from the BL&LRO, Mandirbazar may be referred. The report depicts that an illegally built pucca structure raised by Debendra Nath Halder on the middle of plot no. 2210. Besides, the report shows the possession of other occupiers/owners on the plot. It will be pertinent to excerpt the report which, *inter alia*, reads as under :

“From the office records it is observed that plot no. 2210 of mouza Chandpur (J.L. no. 31) consists of an area of 07 decimal and the recorded classification is Danga. 23 L.R. khatians have been found recorded against the said plot with their respective share and areas.

From spot enquiry it is transpired that the total land was divided in three distinct equal parts with an area of 2.67 decimal (approx.) each. The defendant , Debendra Nath Haldar, s/o- Damodar of Chandpur was in possession over 1/3rd share i.e. 2.67 decimal in the eastern part of the plot after making a kacha structure approximately 40 years ago.

The petitioner, Bharati Haldar (now deceased), w/o - Arabinda purchased 1/3rd share from the middle part i.e. 2.33 decimal from Aniruddha Haldar, s/o - Gadadhar and Panchali Haldar, w/o - Aniruddha Haldar by virtue of regd. Deed being no. 6437 dated 19/08/1989 registered at A.D.S.R. Ghateswar, South 24 Parganas and since then she was in possession over the suit land

Before approximately 20 years said Debendra Nath Haldar constructed his dwelling house over 4.66 decimal (approx.) (brick built wall covered with tiles) after demolishing the old structure (over 2.34 decimal). In addition to that, the middle part with an area of 2.34 also became the integrated part of his dwelling house.

They produced only three registered deeds in support of their right, title and possession, from which it appears that (i) Debendra Nath Haldar (L.R. khatian no. 4944) got 1.16 decimal from his father Damodar Haldar by virtue of deed no. 4159 dated 22/07/2010 registered at A.D.S.R. Ghateswar, South 24-Parganas.

(ii) Sanjit Haldar, one of the sons of said Debendra Nath Haldar got 0.1372 decimal by virtue of deed no. 1947 dated 15/03/2024 registered at A.D.S.R. Ghateswar, South 24-Parganas from Prasanta Haldar (L.R. khatian no. 4895), Susanta Haldar (L.R. khatian no. 4896) and Swapan Haldar (L.R. khatian no. 4897), all sons of Nalini Kanta Haldar and 0.70 decimal by virtue of deed no. 2498 dated 15/04/2024 registered at A.D.S.R. Ghateswar, South 24 Parganas from Shyam Sundar Haldar (L.R. khatian no. 4633). So they are collectively entitled to get total 02 decimal (approx.) of land over the suit plot.

Rest part of the plot, i.e. 2.34 decimal (approximately) which is just by the side of village road is possessed by one Indrajit Haldar, one of the sons of said Debendra Nath Haldar by gathering decorator's material after getting verbal permission from one of the land owner Sanat Haldar, s/o - Nilratan (L.R. khatian no. 4583, 4722)

So, it is clear that the petitioner (now deceased) had no possession over the suit land since last 20 years.

The desired Status report is being sent to your end for information and taking necessary action.”

The evidence of the complainant Smt. Bharati Halder, since deceased and her husband Arabinda Halder coupled with the Report of BL&LRO, the Police Report (Exhibit-B1) and two letters dated 02.09.2014 and 05.07.2024 issued by the Pradhan, Chandpur-Chaitanyapur Gram Panchayat to Debendra Nath Halder, substantiate the allegations in the complaint that Debendra Nath Halder initially attempted to raise a pucca construction on the land of the complainant on and from 11.05.2008 causing breach of peace at the locale and ultimately he completed the construction illegally without taking any permission from the Gram Panchayat. Such oral and documentary evidence also substantiate the allegations that the respondents Smt. Manashi Halder, Ex-Pradhan of Chandpur-Chaitanyapur Gram Panchayat and Sri Ajit Naskar, Ex-Upa Pradhan of the Gram Panchayat assisted and allowed Debendra Nath Halder to complete the illegal construction out of their political motivation. This Forum, vide order dated 16.02.2009, during preliminary enquiry, has observed that the complainant has clearly stated in her deposition that out of political motivation, the Pradhan and Upa-Pradhan did not take any step against the said Debendra Nath Halder for such unauthorized construction and the reason for such political motivation has also clearly been stated by her own oath in her deposition. By the same order, this Forum directed that the copies of the complaint, copies of the deposition of the complainant and her husband and copies of all exhibited documents be forwarded to each of the respondents directing them to file Statement of Defence by way of affidavit within a specified time. Even subsequently, this Forum before conducting a full-fledged investigation into the complaint directed each of the respondents vide orders dated 18.02.2026 and 10.03.2026 to make comments in writing of their defence within a specified time, but to no effect. This shows that despite giving opportunity to the respondents to defend themselves, none of

them either filed written statement nor made comments in writing in their defence. That being so, the allegations made against the respondents and substantiated by oral and documentary evidence, remain uncontroverted on the part of the respondents. The deposition of RW-1 Ajit Naskar on oath before this Forum does not nullify the overwhelming evidence adduced against him on the part of the complainant. On the other hand, despite issuing notice upon her, respondent no. 1 Manashi Halder, Ex-Pradhan, did not turn up before this Forum to be examined on oath. As such, the allegations against her as substantiated by oral and documentary evidence also remain uncontroverted.

As transpires from the evidence on record, because of political motivation as detailed in the deposition of Smt. Bharati Halder, since deceased, the aforesaid former Pradhan and former Upa-Pradhan of Chandpur-Chaitanyapur Gram Panchayat assisted and allowed Debendra Nath Halder to trespass and encroach upon the land of the complainant and raise an illegal pucca construction thereon without obtaining any permission from Gram Panchayat.

In compliance with the order dated 28.04.2014 passed by the Hon'ble High Court, Calcutta, in W.P. No. 8250(W) of 2012 as quoted above, Sundari Halder, the erstwhile Pradhan by memo. dated 02.09.2014 and Anita Paik, the present Pradhan of the Gram Panchayat by letter dated 05.07.2024 directed Debendra Nath Halder to demolish the illegal construction, but to no effect. What appears from the evidence of Smt. Anita Paik, the present Pradhan and Mr. Masud Raihan, B.D.O., Mandirbazar, the present Pradhan in terms of Section 23(5) of the West Bengal Panchayat Act, 1973 referred the matter to the Sub-Divisional Officer, Diamond Harbour requesting him to demolish the illegal construction. In such context, it will be apposite to refer to Section 23(5) of the West Bengal Panchayat Act, 1973, which reads as under :

“Where any new structure or new building or new 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 and opportunity of being heard, make an order directing 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 recovered the cost thereof from the owner as a public demand."

Therefore, referring to the matter to the Sub-Divisional Officer by the Pradhan of the aforesaid Gram Panchayat is warranted by law as prescribed u/s 23(5) of the Panchayat Act.

During the preliminary enquiry while it comes to the notice of this Forum that the reference is still pending before the Sub-Divisional Officer, this Forum called for a Report from the Sub-Divisional Officer. In compliance thereof, the Sub-Divisional Officer has submitted a Report. On the report Submitted by the Sub-Divisional Officer, Diamond Harbour, Mr. Dhruvajyoti Pramanik, Deputy Magistrate who represented the Sub-Divisional Officer was examined on oath on 18.02.2026 and his statement has been recorded.

Be it noted that since the Pradhan, Chandpur-Chaitanyapur Gram Panchayat proceeded to demolish the illegal construction raised by Debendra Nath Halder on the land of the complainant in compliance with the direction of the Hon'ble High Court passed in the aforesaid Writ Petition and since the proceeding has been initiated by the Sub-Divisional Officer on the reference u/s 23(5) of the West Bengal Panchayat Act, 1973 made by the Pradhan, the offences allegedly committed by Debendra Nath Halder in league with the respondents as regards illegal construction by trespassing upon the land, are continuing offences.

From the deposition of Witness No. 6 Dhrubajyoti Pramanik and the further deposition of Debendra Nath Halder recorded on 18.02.2026 and from the Report of the Sub-Divisional Officer, it appears that an attempt has been made to convince this Forum that the parties have settled their disputes amicably.

As Section 23(5) of the West Bengal Panchayat Act, 1973 mandates and as the order of the Hon'ble High Court directs, the Sub-Divisional Officer has no authority in the proceeding initiated u/s 23(5) of the Panchayat Act to make any endeavour to get the matter compromised in contravention of the direction of the Hon'ble High Court. Compromise, if any between the parties, may only be allowed by the Hon'ble High Court wherefrom the order as quoted above was passed directing the Pradhan to take appropriate legal action to demolish the illegal construction. In such backdrop, all endeavor or attempt made either on behalf of the parties or on behalf of the Sub-Divisional Officer to compromise the matter in contravention of the direction of the Hon'ble High Court, Calcutta are not sustainable in law. That being so, the Sub-Divisional Officer is under legal obligation to dispose of the proceeding before him/her for removal of the illegal construction raised by Debendra Nath Halder on the land of the complainant.

By raising illegal construction on the land of the complainant after trespassing upon and encroaching the land and by causing damage and mischief to the property of the complainant, Debendra Nath Halder and the respondents Smt. Manashi Halder, Ex-Pradhan and Sri Ajit Naskar, Ex-Upa Pradhan have committed criminal offences. By abuse of power and resorting to corrupt practices, Smt. Manashi Halder, Ex-Pradhan and Sri Ajit Naskar, Ex-Upa Pradhan of Chandpur-Chaitanyapur Gram Panchayat have kept the complainant Bharati Halder, since deceased and her husband Arabinda Halder out of possession of their property since 2008 and thereby they have caused monetary damages to them.

By an application dated 02.02.2022, Arabinda Halder intimated to this Forum that because of abuse of power of the respondents, he and his family members were falsely implicated in a number of criminal cases. Out of humiliation, his wife Bharati Halder committed suicide on 22.10.2009 after consuming poison. Because of abuse of power and corrupt practices on the part of the respondents Smt. Manashi Halder and Sri Ajit Naskar, the complainant Bharati Halder not only died out of humiliation and frustration, but also her husband Arabinda Halder and all her family members suffered immense mental agonies for a considerable length of time. For such sufferings of Arabinda Halder and his family members, the respondents should be directed to compensate the same monetarily.

Having considered the totality of the facts and circumstances as delineated above, this Forum thinks that it will be just if each of the respondents is directed to pay compensation of Rs.5,00,000/- (Rupees five lakh) to the complainant's husband Arabinda Halder for immense monetary and mental sufferings of his family members and himself.

Despite the direction of the Hon'ble High Court as to demolition of the illegal construction on the land as above still remaining in force, the Sub-Divisional Officer, Diamond Harbour has kept the proceeding pending illegally allowing the parties to go on for a compromise in contravention of the direction of the Hon'ble High Court. In this regard, the Sub-Divisional Officer shall be directed to demolish and remove the illegal construction and handover the trespassed and encroached land to the husband of the complainant expeditiously.

As per Section 2 (iv) of the West Bengal Lokayukta Act, 2003, Sabhadhipati, Zilla Parishad, South 24 Parganas is the competent authority in case of Pradhan and Upa-Pradhan of a Gram Panchayat. So far as the Sub-

Divisional Officer is concerned, the State Government through the Chief Secretary is the competent authority.

In view of the observations as recorded above, the following recommendations are made to the competent authorities namely the Sabhadhipati, Zilla Parishad, South 24 Parganas and the State Government through the Chief Secretary, West Bengal :-

1. Criminal proceedings be initiated by lodging an FIR against Debendra Nath Halder, Smt. Manashi Halder, Ex-Pradhan, Chandpur-Chaitanyapur Gram Panchayat and Shri Ajit Naskar, Ex-Upa Pradhan, Chandpur-Chaitanyapur Gram Panchayat at the local Police Station immediately on the allegations of raising illegal pucca construction on the land of the complainant, Smt. Bharati Halder, since deceased, trespassing and encroaching upon the land and causing damages and mischief to the property of her and for this purpose delay in lodging the FIR shall stand condoned .
2. Each of the respondents Smt. Manashi Halder, Ex-Pradhan and Shri Ajit Naskar, Ex-Upa Pradhan of the Gram Panchayat shall be directed to pay compensation of Rs.5,00,000/- (Rupees five lakh) to Arabinda Halder, the husband of the complainant Bharati Halder, since deceased, to compensate the damages to their property and the mental agonies suffered by him and his family members within a specified time and in case, they fail to pay the amount, the amount of compensation shall be treated as arrear land revenue and it will be recovered under the West Bengal Public Demands Recovery Act, 1913.
3. The Sub Divisional Office, Diamond Harbour shall be directed to demolish and remove the illegal construction from the land of the complainant, handover the land to Arabinda Halder, the husband and legal representative of Smt. Bharati Halder, since deceased and dispose of the proceeding initiated u/s 23(5), the West Bengal Panchayat Act, 1973 expeditiously.

Learned Registrar is directed to send this report along copies of the complaint, deposition of all the witnesses, all exhibited documents, the report of the Block Land & Land Reforms Officer, Mandirbazar, the report of Sub-Divisional Officer, Diamond Harbour, letters dated 02.09.2014 and 05.07.2024 of the Pradhan of Chandpur-Chaitanyapur Gram Panchayat to Debendra Nath Halder and a letter dated 02.02.2022 of Arabinda Halder addressed to this Forum to the Sabhadhipati, Zilla Parishad, South 24 Parganas and the State Government through the Chief Secretary, Government of West Bengal immediately.

The competent authorities are requested to communicate the Action Taken Report on the recommendations within **forty-five (45) days** from the date of receipt of this report.

Sd/-

Justice Rabindranath Samanta
Hon'ble Lokayukta