

WPA 963 of 2022

Alaka Ghosh
Vs.
The State of W.B. & Ors.

Mr. Apalak Basu
Mr. Mukul Biswas ...for the petitioner.

Mr. Sirsanya Bandyopadhyay
Mr. A. K. Nag ...for the State.

Heard learned counsels for the parties.

It is contended on behalf of the petitioner that in an earlier writ petition filed by the petitioner being WPA 12137 of 2021, a co-ordinate Bench of this Court by an order passed on 6th August, 2021, recorded that no portion of the petitioner's land was encroached upon by the State respondents for construction of Bongaon-Chakdah bridge.

Subsequently, the State respondents issued notice under Section 10(1) of the West Bengal Highways Act, 1964 on January 4, 2022 alleging that the petitioner had encroached upon a portion of the PWD road.

The petitioner alleges that though the said notice was not served upon the petitioner, the concerned authority demolished a portion of the structures of the petitioner in the plot in question and obtained an undertaking from the husband of the petitioner on 16th January, 2022 by way of coercion to the effect that the petitioner's husband would demolish the structure in the plot in question within 19th

January, 2022, failing which the concerned authority would be at liberty to demolish the same on 20th January, 2022.

It is submitted on behalf of the petitioner that the said undertaking was obtained from the husband of the petitioner forcibly and no portion of government land has been encroached upon by the petitioner. The petitioner has prayed for compensation for such illegal demolition of a portion of the structures in her property.

Per contra, it is submitted on behalf of the State respondents that since the husband of the petitioner undertook to remove the unauthorised construction over government land within a stipulated time frame and failed to keep his word, the authority proceeded to demolish the said construction and chose not to continue with the proceeding under Section 10 of the Act of 1964.

Upon consideration of the submission made on behalf of the parties, this Court is inclined to hold that even if it is accepted that the petitioner's husband undertook to remove the allegedly unauthorised construction from the plot in question, the State respondents ought to have taken recourse to Section 10 of the Act of 1964, instead of demolishing the construction therein straightway.

Since proceeding under Section 10 of the Act of 1964 has been initiated by the respondents, the respondents be directed to take the proceeding to its logical conclusion

within a stipulated time frame after affording reasonable opportunity of hearing to the petitioner, who may substantiate her rights in respect of the plot in question before the authority.

Accordingly, the writ petition is disposed of directing the respondent authorities to continue with the proceeding under Section 10 of the Act of 1964 and take it to its logical conclusion within a period of two months from the date of communication of this order, after giving reasonable opportunity of hearing to all the interested parties including the petitioner, in accordance with law. The petitioner shall be at liberty to place her contention and furnish relevant documents before the authority to substantiate her claim.

It is made clear that this Court has not gone into the merits of the case and the respondent authorities shall be at liberty to act independently and without being influenced by any observation made by this Court in the body of the order.

With the above observations and directions this writ petition being WPA 963 of 2022 is disposed of.

However, there shall be no order as to costs.

Since no affidavit is invited, the allegations contained in the petition are deemed not to be admitted.

Urgent certified website copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Suvra Ghosh, J.)