

AD. 23.
June 7, 2022.
MNS.

WPA No. 8917 of 2022

Golam Mortoza
Vs.
The State of West Bengal and others

Mr. Robiul Islam,
Sk. Jayeed Hossain,
Ms. Pramita Banerjee,
Mr. S. A. Munshi
...for the petitioner.

Mr. Susovan Sengupta,
Mr. Subir Pal
...for the State.

Affidavit-of-service filed in Court today be kept
on record.

Learned counsel for the petitioner submits
that, pursuant to a previous order of Court, the
Executive Engineer, WBSRDA, Murshidabad
Division, vide report dated April 11, 2022 (annexed at
pages 18 and 19) has clearly disclosed that the
respondent no. 8, namely, Mohidul Mondal, is
admittedly occupying a government land.

Hence, it is submitted that the Collector ought
to have taken immediate steps for eviction of the said
illegal encroacher under the West Bengal Public
Land (Eviction of Unauthorised Occupants) Act, 1962
[1962 Act].

Learned counsel appearing for the respondent
authorities submits that there is no further doubt in
respect of the illegality of the occupied portion.

However, it is submitted that the Court may take a sympathetic view since respondent no. 8 is a day labour of humble means.

Upon perusing the report dated April 11, 2022, authored by the Executive Engineer, submitted pursuant to the direction dated February 9, 2022, WBSRDA, Murshidabad Division, there remains no doubt that the present respondent no. 8- Mohidul Mondal, has been dwelling near about 25 years on the land-in-question, which is admittedly a government land.

Hence, there is no scope of avoiding the consequences of such report. It is the incumbent duty of the Collector, that is, the District Magistrate at Murshidabad to take immediate steps under the 1962 Act for eviction of the respondent no. 8 from the public land.

Accordingly, WPA No. 8917 of 2022 is allowed, thereby directing the respondent no. 2, the District Magistrate and Collector, Murshidabad, to take immediate steps for eviction of respondent no. 8 under the 1962 Act as expeditiously as possible. Such steps should be initiated not later than a month from date. If necessary, respondent no. 2 shall deem this order to be sufficient notice for the purpose of satisfaction of Section 3 of the 1962 Act.

It is made clear, however, that it will be open to the Collector to delegate it to a subordinate officer

within the contemplation of law, if the District Magistrate/Collector so feels, for the purpose of adjudication.

It is further made clear that nothing in this order shall prevent the respondent no. 8 from being heard and given an opportunity for presenting his case before the respondent no. 2 and to take all legal defences available to the respondent no. 8 in such regard before the respondent no. 2 or his delegate.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)