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jdt.

18.07.2022
jb.

W.P.A. 9643 of 2022
(Debdas Mondal & Anr. vs. State of West Bengal & Ors.)

Shamim Ul Bari
Md. Hasanuz Zaman
.... For the Petitioners

Mr. Debabrata Sardar
.... For the State

Affidavit of service filed by the petitioners is taken on record.

None appears for the State respondents despite service.

Mr. Chandi Charan De, learned advocate who usually appears for the State and is present in Court is requested to represent the State in this matter. His service be regularised by the office of the learned Legal Remembrancer.

The petitioners are directed to serve a copy of this writ petition along with annexure thereto to Mr. De in course of this day.

The petitioners claim to be recorded owners of the plot in question and complain

that the private respondents have raised unauthorised construction by encroaching upon a portion of the PWD Highway adjoining their property thereby obstructing egress and ingress of the petitioners. The petitioners submitted a representation before the concerned authority which was not heeded to. The petitioners pray for a direction upon the authority to consider the representation at the earliest.

It is submitted on behalf of the private respondents that the private respondents have been occupying the plot in question prior to purchase of the land by the petitioners and have not encroached upon any portion of the Government land.

Learned counsel for the State respondents submits that the representation submitted by the petitioners may be directed to be disposed of by the 8th respondent in accordance with law.

It appears that notice under Section 10 of the West Bengal Highways Act, 1964 was issued upon the alleged encroacher by the Assistant Engineer, PWD, Baruipur subdivision on 8th March, 2019. According to the petitioners no further step has been taken by the authority in this regard.

In view of the same, the Court is inclined to hold that as notice under Section 10 of the West Bengal Highways Act, 1964 has been issued by the Assistant Engineer, the concerned authority should be directed to complete the entire process in terms of the representation submitted by the petitioner dated 14th March, 2022 within three months from the date of communication of order after giving reasonable opportunity of hearing to all the interested parties including the petitioners and the private respondents, in accordance with law.

W.P.A. 9643 of 2022 is thus disposed of.

There shall be no order as to costs.

Since no affidavit has been invited, allegations contained in the writ petition shall be deemed not to have been admitted.

Urgent certified website copy of the order, if applied for, be given to the parties on compliance of requisite formalities.

(Suvra Ghosh, J.)