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23.03.2022
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W.P.A. 12030 of 2021
(Sri Ananta Kumar Sahoo & Anr. vs. State of West Bengal & Ors.)

Mr. Siddhartha Sarkar
.... For the Petitioners
Mr. C. C. De
Mr. Somnath Mukherjee
.... For the State

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

None appears for the private respondent
despite service of notice.

It is contended on behalf of the
petitioners that the private respondent filed
a writ petition being W.P.15673(W) of 2019
before this Court alleging unauthorised
construction and encroachment of public road
by these petitioners and by an order dated
20th August, 2019 passed in W.P. No. 15673(W)
of 2019, a co-ordinate Bench of this Court
directed the State respondents to ascertain
whether such encroachment was made by these
petitioners and in the event of such
encroachment to take expeditious steps for

removal of the same. Pursuant to the said order, a notice under Section 10(1) of the West Bengal Highways Act, 1964 was served upon the petitioners on 22nd July, 2020.

It is submitted on behalf of the petitioners that the State respondents served notice to the petitioners on 19th July, 2021 informing them that the Authority was taking steps for removal of the unauthorised construction and eviction of the petitioners from the plot in question. According to the petitioners, the provisions of Section 10(2) and Section 10(3) of the Act of 1964 were not complied with by the Authority prior to issuance of such notice.

It is submitted on behalf of the State respondents that the Authority may be directed to proceed in accordance with Section 10 of the Act of 1964 within a stipulated time frame.

It is not in dispute that this Court directed the State Authorities to ascertain whether there was any encroachment on any portion of the plot in question belonging to the State and in such event, take expeditious

steps for removal of all unauthorised occupants therefrom. Such exercise was expected to be undertaken by the authority in accordance with law.

The record reveals that notice under Section 10(1) of the West Bengal Highways Act, 1964 was followed by a letter issued to the Sub-Divisional Police Officer, Belda, Paschim Medinipur for extending police assistance for removal of unauthorised encroachment under Section 12(2) of the Act of 1964. Admittedly the provision of Section 10 of the Act of 1964 was not complied with prior to issuance of the letter dated 19th July, 2021.

In view of the same, the writ petition is disposed of directing the 3rd respondent to act in consonance with the provisions of Section 10 of the West Bengal Highways Act, 1964 before any act of demolition is undertaken by the Authority. Such exercise should be completed within one month from the date of communication of this order after giving reasonable opportunity of hearing to all the interested parties including the

petitioners and the private respondent, in accordance with law.

Pending such exercise, notice dated 19th July, 2021 be stayed.

With the above observations and directions, W.P.A. 12030 of 2021 is 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.)