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23.02.2022
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W.P.A. 15579 of 2021
(Saidur Rahaman & Anr. vs. State of West Bengal & Ors.)

Mr. Partha Pratim Roy
Mr. Anirban Das
Mr. Sarbananda Sanyal
... For the Petitioners

Mr. Ansar Mondal
... For the State

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

None appears for the private respondents
despite service.

Liberty is granted to the petitioners to
implead the Executive Engineer, Irrigation
and Waterways Department, Murshidabad as 7th
respondent in the writ petition.

The cause-title of the writ petition be
amended accordingly.

It is contended on behalf of the petitioners that despite directions given by this Court in writ petitions being W.P. No. 17240 of 2019 and W.P.A. 4354 of 2021 for completion of proceeding under Section 10 of the West Bengal Highways Act, 1964, such proceeding is yet to be completed. Learned counsel for the petitioners takes this Court to an order passed by the Sub-Divisional Officer, Lalbagh on 10th August, 2021 directing the Irrigation Department to start proceeding against encroachers under the West Bengal Public Land (Eviction of Unauthorised Occupants) Act, 1962. The petitioners pray for direction upon the Authority to comply with the said order at the earliest.

Learned counsel for the State respondents submits that the concerned Authority being the Irrigation and Waterways Department be directed to consider the case of the petitioners within a stipulated time frame.

The orders passed by the co-ordinate Benches of this Court direct the Authorities to complete the proceeding under Section 10(1) of the Act of 1964 expeditiously. The

Executive Engineer, Murshidabad Highway Division No.-I P.W. (Roads) Directorate has observed in a letter dated 10th September, 2021 that as the land in question does not belong to P.W.D, no proceeding can be initiated under the West Bengal Highways Act, 1964 and the Irrigation Department who owns the land at present should initiate proper proceedings under the law. In the order dated 10th August, 2021 passed by the Sub-Divisional Officer, Lalbagh, the Irrigation Department was directed to start proceeding under the Act of 1962 against the encroacher. This Court is informed that no further communication with regard to initiation of such proceeding has been made to the petitioners till date.

In view the above, the writ petition is disposed of directing the 7th respondent to initiate proceeding under the West Bengal Public Land (Eviction of Unauthorised Occupants) Act, 1962 against the encroachers in terms of the order of the Sub-Divisional Officer dated 10th August, 2021 and take the proceeding to its logical conclusion within two months from the date of communication of this order. The concerned Authority should

afford reasonable opportunity of hearing to all the interested parties including the petitioners and the private respondents in dealing with the matter.

With the above observations and directions, W.P.A. 15579 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.)