

08.02.2022
rc/ct.no.10
Item No.20

WPA No. 21424 of 2021
Jharna Das
Versus
The State of West Bengal & Ors.

Mrs. Manika Ray ...for the petitioner

Mr. Biswabrata Basu Mallik
Mr. Sanjib Das ...for the State

Mr. S.N.Mukherjee
Mr. Niraj Gupta ...for the respondents No. 7-10

Report in the form of affidavit submitted by the respondent authorities is taken on record.

The grievance of the petitioner is that the private respondents have raised illegal constructions on PWD land adjoining her property and have thereby jeopardised the business of the petitioner run in her property. The petitioner submitted a representation before the concerned authority in this regard on May 05, 2021 which is yet to be disposed of.

Placing reliance on the report in the form of affidavit, learned counsel for the State-respondents submits that it was detected upon inspection that the private respondents have constructed shop rooms on PWD land and have rented the said shop rooms to various persons.

Challenging the maintainability of this writ petition, learned counsel appearing on behalf of the private respondents submits that the present dispute is between the petitioner and the private respondents and there is no

public element which calls for an application under Article 226 of the Constitution of India. He also submits that the alleged constructions are kachcha constructions and no pacca construction has been raised on PWD land.

It *prima facie* appears from the report submitted by the State-respondents that the private respondents have allegedly encroached upon PWD land and constructed shop rooms therein illegally.

In the representation submitted by the petitioner before the authority the petitioner has requested the authority to take immediate steps against the persons who have encroached upon the Government land.

In view of the submissions made by the learned counsels appearing on behalf of the parties as well as the report filed by the learned counsel appearing on behalf of the State-respondents, the writ petition is disposed of directing the respondent no. 4 to consider and dispose of the representations submitted by the petitioner dated May 05, 2021 after taking into consideration the report submitted in the form of affidavit by the respondent no. 6 in the writ petition, within a period of three months from the date of communication of this order after giving opportunity of hearing to all the interested parties including the petitioner and the private respondents, in accordance with law.

It is made clear that this Court has not gone into the merits of the case and the parties shall be at liberty to

raise all issues as contended in the writ petition before the authority at the time of hearing.

With the above observations and directions this writ petition being WPA No. 21424 of 2021 is disposed of.

There shall be, however, 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 furnished to the parties upon compliance of necessary formalities.

(Suvra Ghosh,J)