

09.10.2023

Item No.15

Ct. No.1

PG/KS

W.P.A.(P) 89 of 2023

Pratap Basu

Vs.

The State of West Bengal & Ors.

Mr. Pratap Basu

.....Petitioner (appearing in person)

Mr. Tapan Kumar Mukherjee

Ms. Tuli Sinha

.....for the State

Mr. Prosenjit Mukherjee

Mr. Arghya Kamal Das

.....for the private respondent nos.11, 12 and 13

Mr. Asok Kumar Chakraborti, Ld. A.S.G.

Mr. Arijit Majumder

.....for the Railway

Ms. Mekhla Sinha

Ms. Malabika Roy Dey

.....for the respondent no.5/Howrah Zilla
Parishad

1. The petitioner appearing in person has filed this public interest litigation, alleging that the private respondents namely, the respondent nos.11 to 13 have encroached into a land, which was acquired for the purpose of the railways, filled up the water body and put up unauthorized construction.
2. The learned Additional Solicitor General would point out that under Section 147 of the Railways Act, 1989, the trespassers of railway property can be evicted in accordance with the said provision. It appears that the private respondents have filed a writ petition before the learned Single Bench as

against the notice issued by the authorities alleging unauthorized construction but the writ petition has not been taken up on account of the pendency of this public interest litigation.

3. The learned advocate appearing for the private respondents also submitted that the land, which was purchased by the private respondents from the erstwhile owner of the land do not form part of the land, which was acquired for the railway project.
4. These are all disputed questions of fact, which cannot be resolved in a writ petition by filing of affidavits.
5. Therefore, we direct the 4th respondent namely, the Divisional Manager, South Eastern Railway, Kharagpur, Paschim Medinipur District to inquire into the matter by himself or any other officer, who is empowered to deal with the matter and issue notice to the private respondents, call for the necessary documents and examine the same and if it is found that there is any encroachment of the railway land or the land, which was subject-matter of acquisition, appropriate action be taken in accordance with law.
6. If the encroachment is directed to be removed under the provisions of the Railways Act, action

can be initiated. However, if the same has to be done by the State authorities, necessary orders be passed in this regard and communicated to the appropriate authority of the State Government.

7. The learned advocate appearing for the private respondents would submit that his clients have applied for conversion of the property and after obtaining appropriate approvals, construction had been put up.
8. This aspect of the matter shall also be examined by the Divisional Railway Manager or such other authority as the Divisional Railway Manager may nominate. Since assistance of the revenue authorities may be required, the Divisional Railway Manager can seek necessary assistance from the District Magistrate, Howrah, who shall nominate the appropriate officers of the revenue department to assist in the process of inquiry and for demarcation and identification of the property in question.
9. The above directions be complied with within a period of eight weeks from the date of receipt of server copy of this order.
10. With the above directions, the writ petition stands disposed of.
11. No costs.

12. Urgent Photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)