

26.04.2023
sayandeep
Sl. No. 06
Ct. No. 05

WPA 9666 of 2022

Swapan Kumar Shaw @ Swapan Sau
-Versus-
The State of West Bengal & Ors.

Mr. Tanmoy Chowdhury
Ms. Ritoprita Ghosh

..... for the petitioner

Mr. Susanta Pal
Mr. Syed Mosihar Rahman

... for the State

The petitioner is enjoying interim protection by way of an order dated 24.08.2022 passed by a co-ordinate Bench. By the said order, the impugned Notice dated 19.05.2022 from the respondent No. 5 being The Overseer/Sub-Assistant Engineer, Department of Irrigation and Waterways, asking the petitioner to remove the alleged unauthorized construction, was stayed. The reason given by the learned Judge was that the petitioner was not given an opportunity of hearing before issuing of the impugned Notice.

Learned counsel appearing for the State respondents submits that the petitioner did not appear for hearing despite being called.

A Notice dated 14.06.2018, which has been referred to by counsel appearing for the State, indicates that it is not a Notice calling upon the petitioner to

present his case. It is simply a Notice informing the petitioner of the alleged unauthorized structure.

However, since the petitioner is willing to participate in a hearing before the concerned authority, WPA 9666 of 2022 is disposed of with a direction on the respondent No. 3 being The Executive Engineer, West Midnapore Division, Department of Irrigation and Waterways, to call the petitioner for a hearing on the alleged encroachment as well as the statutory provisions including Rule 22 of the West Bengal Panchayat (Gram Panchayat Administration) Rules, 2004 or any other Act or Rules which may be relevant to the facts of the instant case.

The respondent No. 3 will come to a reasoned decision within a period of six weeks from date. The interim order will continue until a fortnight after the decision is communicated to the petitioner.

(Moushumi Bhattacharya, J.)