

26th April,
2023
(AK)
23

W.P.A 13970 of 2021

Arun Kumar Giri
Vs.
State of West Bengal and others

Ms. Rita Patra
...for the petitioners.

Mr. Santanu Kumar Mitra
...for the State.

Mr. Shyama Prasad Purkait
Ms. Moumita Mandal
...for the respondent nos.8 to 25.

Learned counsel appearing for the private respondents submits that the petitioner is repeatedly going on filing one after another writ petition on the self-same cause of action.

The initial writ petition filed by the petitioner was dismissed as withdrawn with liberty to file afresh.

However, the subsequent writ petition was merely dismissed as withdrawn, without any such liberty being given.

It is argued that such facts have been suppressed in the present writ petition.

Learned counsel for the petitioner, however, contends that the subsequent order of dismissal as withdrawn without liberty has also been annexed to the writ petition.

It is submitted that the merits of the issues have not been gone into by the court while so dismissing it.

Although otherwise the private respondents might have had a valid objection as regards the present writ petition being barred, since a previous writ petition on the self-same cause of action was dismissed as withdrawn, such principle does not apply to the instant case, since the limited cause of action in the present writ petition is not on the merits of the allegations of illegal occupation but on the dispute as to whether the respondent authorities are required to take steps on the representation made in that regard by the present petitioner, in respect of alleged unauthorised occupation of public property, which is a continuing cause of action.

Since the petitioner has made a representation and nothing comes forth from the respondent-authorities as to whether any steps have been taken in that regard, WPA 13970 of 2021 is disposed of by directing the respondent authorities to consider the representation of the petitioner and take appropriate action thereon.

Such action/initiation of action shall be intimated by the respondent authorities to the petitioner as well as the private respondents immediately thereafter.

The above exercise shall be completed as expeditiously as possible, positively within four weeks from the date of communication of this order to the absentee respondents.

The petitioner shall serve a notice along with a server copy of this order on the absentee respondents in order to ensure compliance of the above directions.

It is, however, made clear that the merits of the allegations and counter-allegations of the parties against each other have not been gone into by this court and it will be open to the parties to urge all points before any competent legal forum.

There will be no order as to costs.

Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)