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jdt.

20.11.2023
jb.

W.P.A. 13283 of 2023
Prabhat Kumar Bhunia & Ors.
vs.
State of West Bengal & Ors.

Mr. Amit Baran Dash
Ms. Ankana Sarkar
.... For the Petitioners
Mr. L. M. Mahata
Mr. Rudranil De
.... For the State
Mr. Binay Kr. Das
.... For the Respondent Nos. 9, 10,
11, 13, 14 and 16
Sk. Sahjahan Ali
Asif Iqbal Ahmed
.... For the Respondent No. 15

Pursuant to an earlier order passed by a co-ordinate Bench of this Court in W.P.A. 16057 of 2022 on 18th November, 2022 directing the Sub-Divisional Officer, Egra to dispose of the representation submitted by the petitioners therein, an enquiry was held by the Sub-Divisional Magistrate and an order passed on 12th April, 2023. In the earlier order, this Court observed that the Executive Magistrate, that is the S.D.O. Egra was empowered to take steps under Section 10(2) of the West Bengal Highways Act, 1964 for removal of encroachment from the said highway. Upon enquiry by the Block Land and Land Reforms Officer, Egra-I, it was

found that the private respondents were in illegal occupation of plot No. 1884 which is a vested land besides plot No. 1886 which is PWD land. In the order impugned passed on 12th April, 2023, the Sub-Divisional Magistrate held that since the Hon'ble Court instructed the authority to take action as per Section 10(2) of the Act of 1964 and not in respect of the vested land under the West Bengal Public Land (Eviction of Unauthorised Occupants) Act, 1962, the authority chose not to proceed with the eviction proceeding under the Act of 1962.

This Court fails to understand what prevented the authority from proceeding under the Act of 1962 despite having knowledge that the land vested in the Government has been encroached upon by the private respondents.

Learned counsel for the respondent No. 15 submits that a portion of plot No. 1884 has been allotted to his wife by the Government by virtue of patta.

Learned counsel for the respondent Nos. 9, 10, 11, 13, 14 and 16 submits that these respondents have applied for patta before the Government in respect of the land in question.

Upon consideration of the submission made on behalf of the parties, this Court is inclined to hold that since upon enquiry it was found that the vested plot being No. 1884 has been illegally encroached upon by the private respondents, the concerned authorities being the 5th and 6th respondents herein, be directed to take necessary steps for eviction of unauthorised occupants in plot No. 1884 within two months from the date of communication of this order upon affording reasonable opportunity of hearing to all

concerned including the petitioners and the private respondents, in accordance with law.

The concerned authorities shall consider the submission of the private respondents regarding issuance of patta as well as application for issuance of patta in deciding the issue.

With the aforesaid observations and directions, the writ petition 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.)