

November 20, 2023
(18) ARDR

WPA 14182 of 2023

Bapi Biswas & ors.
Vs.
The State of West Bengal & ors.

Adv. Timir Baran Saha,
...for the petitioners.
Adv. Surabita Biswas,
Adv. Varun Kothari,
...for the private respondents.
Adv. Moniruzzaman,
Adv. Tapas Kumar Mandal,
...for the State.

Affidavit of service filed by the petitioners is taken on record.

Heard learned counsels for the parties.

The petitioners allege illegal construction made by the private respondents by encroaching upon PWD land. Pursuant to a representation submitted by the petitioners, the concerned authority held an enquiry and found that there were constructions raised on PWD land. Despite the same, the Sub-Divisional Magistrate, Tehatta, Nadia, by the order impugned passed on 10th March, 2022, recorded that since it was evident from the sketch map that egress and ingress of the petitioners was not hampered by encroachment, the matter was disposed of with an instruction to maintain status quo on the land in question. It is most unfortunate that private respondents have been allowed to continue with the encroachment upon PWD land by the State itself. It is not understood as to why and upon what consideration the State chose to allow the private

respondents to continue with such illegal act despite the fact that illegal occupation by the private respondents was found upon enquiry and demarcation.

In view of the above, this Court is inclined to hold that the order impugned is absurd, irregular and in fact unknown to law and is required to be set aside.

The impugned order dated 10th March, 2022 is accordingly set aside.

The Sub-Divisional Magistrate, Tehatta, Nadia, being the 2nd respondent herein, is hereby directed to revisit the issue and take necessary steps for removal of the unauthorised construction within two months from the date of communication of this order, in accordance with law.

It is made clear that the time frame set out in this order is peremptory and mandatory.

With the aforesaid direction, the writ petition, being WPA 14182 of 2023 is disposed of.

There shall however, be no order as to costs.

Urgent certified website copy of this order, if applied for, be furnished to the parties on usual undertakings.

(Suvra Ghosh, J.)