

05.07.2023
rc/ct.no.10
Item No.36

WPA No. 15097 of 2023
Nirmalendu Saw
Versus
The State of West Bengal & Ors.

Mr. Pankaj Halder
Mr. Sanatan Panja
Mr. Tapas Manna ...for the petitioner

Mr. Avirup Mondal
Mrs. Anima Das Chakraborty ...for the State

Mr. Anindya Lahiri
Mr. Pranati Das
..for the respondents no. 7, 8 & 9

The petitioner claims to be recorded owner of the plot in question and complains that the private respondents have raised unauthorised construction by encroaching upon a portion of the PWD road adjoining his plot, thereby obstructing his ingress and egress. The petitioner submitted a representation in this regard before the concerned authority on 13th June, 2023 which is yet to be considered. The petitioner prays for a direction upon the concerned authority to consider the representation at the earliest.

It is submitted on behalf of the State-respondents that pursuant to the representation submitted by the petitioner, the Assistant Engineer, PWD, Joynagar Sub-Division by a letter issued on June 27, 2023 to the Block Land and Land Reforms Officer, Mathurapur-II, South 24-Parganas requested the latter to demarcate the scheduled

land in presence of the petitioner, private respondents and the Government authorities in order to ascertain encroachment, if any, on the PWD road.

It is submitted on behalf of the private respondents that in a proceeding initiated by the brother of the petitioner under Section 144 of the Code of Criminal Procedure, it is stated that the private respondents have raised unauthorised construction in the property of the petitioner as well as by encroaching upon a portion of the PWD road. Learned counsel submits that the writ petition be confined the alleged encroachment upon the PWD road and not any further.

In view of the above, this Court is inclined to hold that since demarcation of the allegedly encroached plot has been directed by the Assistant Engineer, Joynagar Sub-Division, such demarcation be completed in presence of the petitioner and the private respondents within one month from the date of communication of this order. In the event the encroachment upon the PWD road or any portion thereof is detected upon demarcation, the concerned authority being the 5th respondent herein, is directed to initiate proceeding under Section 10 of the West Bengal Highways Act, 1964 and take the proceeding to its logical conclusion within two months from the date of receipt of the demarcation report upon affording reasonable opportunity of hearing to all the affected persons including

the petitioner and the private respondents, in accordance with law.

It is made clear that such demarcation as well as proceeding shall be confined within the limits of alleged encroachment of the PWD road and not the private property of any of the parties.

With the above observations and directions this writ petition is disposed of.

There shall however be no order as to costs.

Since no affidavit is invited, the allegations contained in the petition are deemed not to be admitted.

Urgent certified website copy of this order, if applied for, be furnished to the parties upon compliance of necessary formalities.

(Suvra Ghosh,J)