

18th July,
2023
(AK)
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W.P.A 15561 of 2023

Safikul Islam
Vs.
The State of West Bengal and others

Mr. Lalratan Mondal
...for the petitioner.

Mr. Sourav Chowdhury
Ms. Rajyashree Mukherjee
...for the State.

Mr. Sounak Bhattacharya
Mr. Abhirup Halder
Mr. Rahul Karmakar
...for the respondent nos.10, 11 & 12.

The petitioner argues that the private respondents are in unlawful occupation of PWD property. Despite the petitioner having sought for action on such score on the part of the PWD, there has been no action by the respondent authorities to that end.

It is further submitted that the petitioner's right to ingress and egress to his property is being blocked by the said unlawful construction.

Learned counsel for the private respondents, apart from denying the allegations of the writ petition, submits

that the action sought by the petitioner is under the Highways Act, which is not applicable in respect of the present case at all, even as per the allegations made in the writ petition and the array of parties.

Learned counsel for the PWD submits that the appropriate party would be the Executive Engineer PWD (Roads) Directorate, Murshidabad Highway Division No.1 (and not 2), Berhampore.

Hence, it is submitted that the writ petition is bad for non-joinder of the said party.

Since the PWD is substantially represented, the writ petitioner is granted liberty to amend the cause title of the writ petition by impleading the Executive Engineer PWD (Roads) Directorate, Murshidabad Highway Division No.1 instead of Division No.2 as respondent no.5.

The necessary corrections to that effect shall be carried out by the learned Advocate-on-record for the petitioner during the course of the day.

Since learned counsel for the respondent no.5 is present in court today, the respondent authorities are directed to regularize his appointment for the added/substituted respondent as well.

As a copy of the writ petition has already been served on the respondents, no further service of copy on the added respondent is being directed.

The grievance of the petitioner is, in the crux, that the private respondents are illegally encroaching upon the property of the PWD authorities.

Irrespective of the mention of the concerned Act as the Highways Act, it is for the PWD authorities to enquire into the matter and ascertain whether there is any unlawful encroachment on its property by the private respondents and, if so, to take appropriate steps under the relevant statute.

Accordingly, WPA 15561 of 2023 is disposed of by directing the respondent no.5 to enquire into the grievance raised by the petitioner with regard to alleged unauthorized occupation of the property of the PWD by the private respondents.

Such enquiry shall be held upon adequate opportunity of hearing being given to the petitioner as well as the private respondents and, if necessary, by seeking a report from the concerned Block Development Officer.

Upon such enquiry, if the respondent authorities filed that there is an unauthorized occupation of the Government land or the PWD land by the private respondents in the perception of the respondent authorities, the said authorities shall institute appropriate proceedings for eviction of such unauthorized occupants from the said premises expeditiously.

It is made clear that none of the allegations made in the present writ petition are deemed to be admitted by the respondents.

This court has not gone into the merits of the allegations and counter-allegations between the parties and it will be open to the respondent authorities to decide all issues in accordance with law, independently of the observations made herein.

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.)