

July 18, 2023
ARDR
(10)

WPA 15774 of 2023

Biswanath Swarnakar
Vs.
The State of West Bengal & Ors.

Adv. Samik Sarkar,
Adv. Ashim Kumar Ganguly,
Adv. Tarak Karan,
...for the petitioner.
...for the State.

Heard learned counsels for the parties.

By an order passed on 10th April, 2023 in WPA 8422 of 2023, a coordinate Bench of this Court directed the Sub-Divisional Officer, Tehatta Sub-Division to dispose of the allegation of both the parties with regard to encroachment over Government land, in accordance with law and in terms of the Act of 1962. The State respondents have not been able to submit a scrap of paper to demonstrate that in compliance with the said order, notice under Section 3 of the Act of 1962 was served upon the petitioner prior to fixing a date of hearing of the issue. Record reveals that by orders passed on 28th April, 2023 and 3rd May, 2023 respectively, date of hearing was fixed by the Sub-Divisional Magistrate and Sub-Divisional Officer, Tehatta and report was called for from the Block Land & Land Reforms Officer, Karimpur-I Block. The order impugned dated 6th June, 2023 directs the encroachers including

the petitioner to remove their encroachments by 6th July, 2023. All these orders were passed without service of notice upon the petitioner under Section 3 of the Act of 1962 and therefore, the order of the coordinate Bench directing compliance of Act of 1962 was not complied with at all.

In view of the above, the order impugned passed on 6th June, 2023 as well as the earlier orders passed on 28th April, 2023 and 3rd May, 2023 which were passed without adhering to the provisions laid down under the Act of 1962 are set aside.

The Sub-Divisional Officer, being the 2nd respondent herein, is directed to revisit the issue upon compliance of the order of the coordinate Bench passed on 10th April, 2023 and pass a reasoned and speaking order within two months from the date of communication of this order upon affording reasonable opportunity of hearing to all the interested persons including the petitioner, in accordance with law.

With the above directions, WPA 15774 of 2023 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 on usual undertakings.

(Suvra Ghosh, J.)