

Item No.249

In the High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

04.10.2023
Ct-24

WPA 20772 of 2023
Ramkrishna Mandal

v.

The State of West Bengal & Ors.

Mr. Balai Lal Sahoo
Mr. Sukhendu Banerjee
Mr. Rameshwar Sinha
Mr. Dilip Kumar Mandal
Mr. Mrityunjoy Saha
... for the petitioner.

Mr. Saibal Acharyya
Mr. Pradip Paul
... for the respondent no. 11.

Mr. Saurav Chaudhuri
Ms. Reshma Chatterjee
... for KMC.

The petitioner complains of illegal and unauthorized construction without any valid sanctioned plan at the behest of the private respondents.

Learned advocate representing the respondent no. 11 submits, upon instruction that, the writ petition is not maintainable. The grievance of the petitioner was duly taken care of by this Court in the earlier writ petition filed by the petitioner being WPA 296 of 2023 which stood disposed of on January 18, 2023.

In compliance of the direction passed by the Court the Public Works Department (PWD) took steps for clearing the encroachers from the public road. A report by the Assistant Engineer, Basirhat Sub-Division, PWD

dated March 20, 2023 is annexed at page 71 of the writ petition.

It has been submitted that further allegation of unauthorized construction on the private land of the petitioner ought not to be entertained by this Court.

Learned advocate representing the respondent no. 11 denies the allegation of unauthorized construction made by the petitioner.

Learned advocate for the petitioner has referred to page 83 of the writ petition wherein the petitioner has been communicated by the Executive Engineer-II, Basirhat Division, PWD that the objection relating to the unauthorized encroachment filed by the petitioner on May 10, 2023 will be investigated and proceeding in that respect will be carried on.

Upon hearing the parties and upon perusal of the documents annexed to the writ petition the Court is not inclined to accept the submission made on behalf of the private respondent no. 11 that the writ petition will not be maintainable.

The Public Works Department has intimated to the petitioner that the application alleging unauthorized encroachment will be investigated. The said allegation is required to be investigated and the objection filed by the petitioner should be brought to its logical conclusion. If any unauthorized encroachment is detected, necessary steps shall be taken to remove the same from the public land/road.

As regards the objection filed by the petitioner alleging unauthorized construction without valid sanctioned plan over the land of the petitioner, the said

objection shall be considered by the Sub-Divisional Officer, Basirhat being the respondent no. 5 herein.

The aforesaid respondent shall cause a spot inspection to ascertain the nature and extent of unauthorized construction upon prior notice to all the necessary parties.

Spot inspection report shall be circulated to all the parties and thereafter an opportunity of hearing shall be given to the parties. If it ultimately transpires that unauthorized construction exists, then necessary steps shall be taken for removal of the same in accordance with law.

The entire exercise shall be concluded at the earliest but positively within a period of twelve weeks from the date of communication of this order.

Learned advocate for the petitioner is directed to forward a copy of the communication dated May 12, 2023 to the respondent no. 3 for investigating the matter and for proceeding with the same in accordance with law, and a copy of the representation dated June 26, 2023 to the respondent no. 5 for taking necessary steps in the matter.

The petitioner is apprehensive regarding life threat from the private respondents as he has complained against the unauthorized construction made by them.

The respondent no. 9, being the Officer-in-Charge, Hingalganj Police Station is directed to ensure that there is no breach of peace in the locale and no harm is caused to the petitioner at the instance of the private respondents.

The writ petition stands disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

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(Amrita Sinha, J.)