

11.10.2023
Sl. No. 16.
Mithun
Ct.No.42.

WPA 21079 of 2023

Manindranath Biswas
Vs.
The State of West Bengal & Ors.

Mr. Shibaji Kumar Das,	..for the petitioner.
Mr. Timir Baran Saha	...for respondent No.9.
Mr. Tanoy Chakraborty, Mr. Saptak Sanyal	...for the State.

The issue relates to demolition of structure situated on the subject land, which is found to be the Government land.

It is the case of the petitioner that the petitioner runs a tea stall on the subject land. For the said business he obtained trade licence in the name of his son and has been paying due taxes to the local body for his business.

One Jagadish Chandra Biswas being the respondent No.9 filed a writ petition, viz, WPA 7845 of 2023 alleging, *inter alia*, that the petitioner herein illegally encroached a portion of the PWD road in such a manner so as to obstruct his ingress and egress. A Co-ordinate Bench of this Court disposed of the said

writ petition vide order dated 14th June, 2023 with the following direction:-

“The Sub-Divisional Magistrate, Tehatta, Nadia being the 3rd respondent herein, is directed to conclude the hearing under Section 10(3) of the West Bengal Highways Act, 1964 within one month from the date of communication of this order upon affording reasonable opportunity of hearing to all the interested persons including the petitioner and the private respondent, in accordance with law.

The decision taken by the said respondent shall be communicated to the petitioner within a week thereof.

With the above observations and directions this writ petition being WPA 7845 of 2023 is disposed of.”

In compliance of the aforesaid order passed in WPA 7845 of 2023, the Sub-Divisional Magistrate took up the hearing under Section 10(3) of the State Highway Act and held that on the subject land there are three small houses. It is also held that the subject land is recorded in favour of the Government. Assistant Engineer, PWD, Krishnagar Sub-Division, Nadia issued notice to Manindranath Biswas under Section 10(1) of West Bengal State Highway Act, to remove the unauthorized encroachment but

Manindranath Biswas, petitioner herein neither removes the encroachment from the subject land nor submits any prove in support of his legal possession over the plot of land. Thus, the Assistant Engineer, PWD was directed to remove the said unauthorized structure from the subject land.

The aforesaid order dated 14th August, 2023 is the subject matter of the instant writ petition. It is submitted by Mr. Das, the learned Advocate for the petitioner that the petitioner has been running a tea stall on the said plot of land. But in the impugned order dated 14th August, 2023 it is recorded that the petitioner has been possessing three small rooms constructed upon the subject land. It was never the case of the private respondent No.9 that petitioner had constructed three rooms on the subject land. On the other hand, it is the consistent plea of the respondent No.9 that he constructed a tea stall in the subject land.

The learned Advocates on behalf of the State respondents as well as the private respondent have vehemently opposed the submission made by the learned Advocate for the petitioner.

I am in agreement with the learned Counsel for the respondent that the instant writ petition has been

filed only to frustrate the effect of the order passed by a Co-ordinate Bench in WPA 7845 of 2023.

The Co-ordinate Bench considered all aspects of the matter and directed the Sub-Divisional Officer to conclude the hearing under Section 10(3) of the West Bengal Highways Act. On the basis of the said order, the Sub-Divisional Officer concluded the hearing. It is not the case as to whether there is one illegal encroachment or more than one illegal encroachment. Whatever be the number of illegal encroachments that were directed to be removed by the Sub-Divisional Officer in compliance of the order passed in WPA 7845 of 2023.

In view of such circumstances, I do not find any merit in the instant writ petition and, accordingly, the instant writ petition is summarily dismissed.

(Bibek Chaudhuri, J.)