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13.01.2023
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W.P.A. 24313 of 2022
(Sushanta Kapat vs. State of West Bengal & Ors.)

Mr. Laxminath Bhattacharyya
.... For the Petitioner

Mr. Soumitra Bandyopadhyay
Mr. Subhasis Bandyopadhyay
.... For the State

Mr. Gazi Farooq Hossain
Ms. Priyanka Mondal
....For the Respondent No. 14

Affidavit of service filed on behalf of the petitioner is taken on record. Copy of the notice issued by the Assitant Engineer, P.W.D., Joynagar Sub-Division is also taken on record.

The petitioner complains that the private respondents have raised unauthorised construction by encroaching upon a portion of the P.W.D. road adjoining his property thereby obstructing his egress and ingress. The petitioner submitted a representation in this regard before the concerned authority on 17th October, 2022 which is yet to be considered.

It is submitted on behalf of the petitioner that during pendency of the writ petition a notice of demarcation was issued by the Assistant Engineer, P.W.D., Joynagar Sub-Division on 29th November, 2022 pursuant to the representation submitted by the

petitioner. However, such demarcation has not been held as yet.

In view of the above, this Court is inclined to hold that since notice of demarcation has been issued, the authority be directed to complete the process of such demarcation within a stipulated time frame and in the event encroachment is detected upon any portion of the PWD road, proceeding under Section 10 of the West Bengal Highways Act, 1964 be initiated.

Accordingly, the writ petition is disposed of directing the concerned authority to complete the process of demarcation in presence of both the parties or their authorised representatives within one month from the date of communication of this order. In the event any unauthorised construction/obstruction is detected on PWD road, the authority concerned shall initiate proceeding under Section 10 of the Act of 1964 and take the proceeding to its logical conclusion within three months from the date of detection of such construction/obstruction upon affording reasonable opportunity of hearing to the interested persons including the petitioner and the private respondents, in accordance with law.

The writ petition is thus disposed of.

There shall be no order as to costs.

Since no affidavit has been invited, allegations contained in the writ petition shall be deemed not to have been admitted.

Urgent certified website copy of the order, if applied for, be given to the parties on compliance of requisite formalities.

(Suvra Ghosh, J.)