

15.06.2023
rc/ct.no.10
Item No.26

WPA No. 25086 of 2022
Pranab Kumar Naskar
Versus
The State of West Bengal & Ors.

Mr. Lakshminath Bhattacharya
...for the petitioner

Mr. Chandi Charan De ...for the State

Affidavit of service filed in Court today is taken on record.

None appears on behalf of the respondents despite service.

Mr. Chandi Charan De, learned advocate, who usually appears on behalf of the State-respondents and is present in Court today, is requested to represent the State-respondents in this matter. The office of the learned Legal Remembrancer is requested to regularise the service of Mr. De in this matter.

The petitioner is directed to serve a copy of this application along with annexures thereto upon Mr. De in course of this day.

The petitioner claims to be recorded owner of the plot in question and submits that the private respondents have raised unauthorised construction by encroaching upon a portion of the PWD road adjoining his property, thereby obstructing his ingress and egress. The petitioner

submitted a representation before the concerned authority on October 17, 2022 which is yet to be considered.

The petitioner prays for a direction upon the concerned authority to consider the said representation at the earliest.

In an earlier writ petition filed by the petitioner on the same issue, being W.P.No. 7585(W) of 2016, a coordinate Bench of this Court, by an order passed on May 10, 2016, directed the Block Land and Land Reforms Officer to demarcate the plots upon service of notice to the petitioner, the Junior Engineer as well as the private respondents within a stipulated time frame. This Court further directed that in the event encroachment was found upon demarcation, the Assistant Engineer would be at liberty to take the proceeding to its logical conclusion strictly in terms of Section 10 of the West Bengal Highways Act. The alleged encroachers were granted liberty to raise all points in their defence before the Executive Magistrate having jurisdiction, if at all reference was made to him in terms of Section 10(2) of the Act.

It is submitted on behalf of the petitioner that despite such order of this Court, no step has been taken by the State-respondents for demarcation of the plot in question or initiating necessary proceeding under Section 10 of the West Bengal Highways Act, 1964.

It is submitted on behalf of the State-respondents that the 6th respondent be directed to consider the representation in accordance with law.

Accordingly this Court is inclined to hold that in view of the order passed by a coordinate Bench on 10th May, 2016 the 6th respondent is directed to consider and dispose of the representation submitted by the petitioner on 17th October, 2022 within a period of three months from the date of communication of this order, after giving reasonable opportunity of hearing to all the affected persons including the petitioner and the private respondents and in terms of the observation made by this Court in the order passed on May 10, 2016.

With the above observations and directions this writ petition is disposed of.

There shall be, however, 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 upon compliance of necessary formalities.

(Suvra Ghosh,J)