

11.12.2023
rc/ct.no.10
Item No.531

WPA No. 25531 of 2023
Sabita Biswas
Versus
The State of West Bengal & Ors.

Mr. Sandipan Maity
Mr. Saumen Gayen ...for the petitioner

Mr. Soumitra Bandyopadhyay
Mrs. Suchana Banerjee ...for the State

Mr. Siddhartha Sankar Mandal
...for the private respondent

Affidavit of service filed by the petitioner is taken on record.

On the prayer of the petitioner liberty is granted to correct the cause title of the writ petition.

The petitioner claims to be the recorded owner of the plot in question and submits that the private respondent has encroached upon a portion of the Government land adjoining her property, thereby obstructing her egress and ingress. The petitioner submitted a representation in this regard before the concerned authority on September 04, 2023 which is yet to be considered. The petitioner prays for a direction upon the authority to consider the representation at the earliest.

Learned counsel for the private respondent submits that though there is club on the plot in dispute of which the private respondent is the secretary, the egress and ingress of the petitioner is not affected by the said

construction. Secondly, a similar writ petition was filed by the petitioner earlier which was disposed by this Court. Thirdly, the petitioner has raised construction in the plot in dispute without applying for conversion of the same.

With regard to the first objection raised by the private respondent, this Court is inclined to hold that since it has been admitted by the respondent that a club house stands on the plot in dispute, illegal encroachment upon Government land is in fact admitted by the private respondent and whether such encroachment obstructs the egress and ingress of the petitioner is only secondary. Such encroachment is required to be removed by the concerned authority under the West Bengal Public land (Eviction of Unauthorised Occupants) Act, 1962.

Secondly, in reply to the submission made on behalf of the private respondent, learned counsel for the petitioner submits that an earlier writ petition was filed by the husband of the petitioner under the West Bengal Highways Act, 1964 alleging unauthorised encroachment of PWD land. Upon disposal of the said writ petition, the concerned Government authority said that the land was not PWD land and therefore did not fall within the purview of 1964 Act. Hence, the present writ petition has been filed.

Thirdly, this Court, in exercise of extraordinary jurisdiction under Article 226 of the Constitution of India cannot deal with the issue of conversion as raised by the

private respondent. The private respondent is at liberty to agitate the said issue before the appropriate forum.

Learned counsel for the State respondents submits that the 3rd respondent be directed to deal with the representation submitted by the petitioner in accordance with law.

In view of the above, the writ petition is disposed of directing the 3rd respondent to consider and dispose of the representation submitted by the petitioner dated September 04, 2023 within a period of two months from the date of communication of this order, after affording reasonable opportunity of hearing to all the interested persons including the petitioner and the private respondent, in accordance with law.

With the above observations and directions this writ petition 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 upon compliance of necessary formalities.

(Suvra Ghosh,J)