

December 5, 2023
ARDR (491)

WPA 25947 of 2023

Md. Mofiz Alam @ Mofiz & ors.
Vs.

The State of West Bengal & ors.

Adv. S. P. Lahiri,
Adv. Md. Habibur Rahaman,
Adv. Rajesh Naskar,

...for the petitioners.

Adv. Ayan Banerjee,

...for the State.

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

The petitioners claim to be the recorded owners of the plot in question as also declared by the Civil Court. The petitioners received a notice under the West Bengal Public Land (Eviction of Unauthorised Occupants) Rules, from the Sub-Divisional Magistrate, Islampur, Uttar Dinajpur on 30th May, 2023 directing them to show cause as to why an order under Section 4(1a) of the Act of 1962 shall not be passed against them. Though the petitioners claim to have appeared before the authority for hearing, the order impugned passed on 31st August, 2023 records that the order was passed ex parte since the petitioners herein failed to submit documents with regard to their claim. The petitioners have carried the said order in appeal which is pending.

Learned counsel for the petitioners submit that during pendency of the appeal, the State authorities have demolished some of the structures in the petitioners' land and have started raising construction therein.

Learned counsel for the State respondents denies and disputes the allegations made by the petitioners.

Upon consideration of the submission made on behalf of the parties, this Court is inclined to hold that since the petitioners have preferred an appeal against the order impugned which is pending, the concerned authority, being the 2nd respondent herein, be directed to consider and dispose of the appeal within one month from the date of communication of this order upon affording reasonable opportunity of hearing to both the parties therein and considering the documents placed by the parties, in accordance with law.

Copy of the order be communicated to the petitioners within a week thereof.

Pending dispose of the appeal, the impugned order dated 31st August, 2023 is stayed.

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

However, there shall 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 supplied to the parties upon compliance with all requisite formalities.

(Suvra Ghosh, J.)