

Sl No. 26
01.03.2023.
SB-II
AGM

**Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction**

WPA 426 of 2023

**Tarun Ghosh
-versus
The State of West Bengal & Ors.**

Mr. Kunaljit Bhattacharjee,
Mr. Alok Sah,
... For the petitioner.

Mr. Kaushik Sinha Sarkar,
Mr. Haider Ali,
Mr. Satyam Sarkar,
Mr. Hirak Deb Barman,
... For the respondent no 9.

Mr. Hirak Barman,
Ms. Bedashruti Bose, ... For the State.

The petitioner alleges that the private respondent has made illegal and unauthorized construction adjacent to the private land of the petitioner by encroaching the PWD land.

In support of such submission the petitioner relies upon the communication dated 23.11.2022 by the Block Land and Land Reforms Officer, Naxalbari, Darjeeling to the Executive Engineer of PWD, North Bengal Construction Division (PWD).

The said communication mentions that on physical verification it was found that the land in question belongs to PWD. The petitioner prays for a direction upon the PWD authority for removal of unauthorized construction.

Learned advocate representing the private respondent denies the allegation that his client made

construction by encroaching the PWD land. It has been submitted that construction has been made over the private land of the said respondent.

Learned advocate representing the respondent authorities submits that the communication dated 23.11.2022 mentions about the construction being made over PWD land.

I have heard the submissions made on behalf of the parties.

On perusal of the communication dated 23.11.2022 it appears that, the date of physical verification is not mentioned therein. The details of the land where the construction has been made are also missing.

Learned advocate for the private respondent has specifically mentioned that no notice of physical verification of the land was ever issued upon the said respondent.

The said communication, heavily relied upon by the petitioner, is an incomplete and sketchy one. The inference of making construction encroaching upon the Government land cannot be derived from the same.

In view of the above, the instant writ petition is disposed of by directing the Block Land and Land Reforms Officer, Naxalbari, Gram Panchayet, Naxalbari and the Executive Engineer of PWD, North Bengal Construction Division (PWD) to conduct a joint inspection upon prior notice to the petitioner as well as the private respondent to ascertain as to whether any construction has been made over the PWD land by any private party.

The inspection shall be conducted at the earliest but positively within a period of eight weeks from the date of communication of this order.

If it ultimately transpires that there has been encroachment over the PWD land by any of the parties,

then necessary steps shall be taken for removal of the same in accordance with law.

A reasoned order shall be passed and communicated to the petitioner immediately thereafter.

WPA No. 426 of 2023 is disposed of.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Amrita Sinha, J.)