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31.07.2023
Ct. No.2
b.das

**IN THE HIGH COURT AT CALCUTTA
Circuit Bench at Jalpaiguri
Constitutional Writ Jurisdiction**

WPA No. 1553 of 2023

Chhabi Sen Majumdar
Vs.
The State of W.B. & Ors.

Mr. Satyam Sarkar ...for the petitioner.

Mr. Hirak Barman
Ms. Bedashruti Bose ..for the State.

Mr. Kunaljit Bhattacharjee
Mr. Alok Sah
Mr. Rahul Ghatak ...for the respondent No.7.

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

The petitioner complains that the private respondent has raised unauthorised construction on the PWD land adjoining her property, thereby obstructing her ingress and egress.

In an earlier writ petition being WPA 426 of 2023, the private respondent herein alleged that the petitioner raised unauthorized construction by encroaching upon the PWD land adjoining the property of the private respondent herein.

By an order passed on 1st March, 2023, a co-ordinate Bench of this Court disposed of the writ

petition directing the Block Development Officer, Naksalbari Gram Panchayat and the Executive Engineer, PWD North Bengal Construction Division (PWD) to conduct a joint inspection upon prior notice to the parties to ascertain whether any construction was made over the PWD land by any private party.

Pursuant to the order of the Court, a joint inspection was held by the authority following which, notice under Section 10(1) of the West Bengal Highways Act, 1964 was issued upon the present petitioner for removal of the unauthorized construction made by her on PWD land.

Learned counsel for the petitioner submits that unauthorized construction has also been raised by the private respondent on PWD land adjoining her property thereby obstructing her egress and ingress.

The petitioner submitted a representation in this regard before the concerned authority on 8th July, 2023, which is yet to be considered. The petitioner prays for a direction upon the concerned authority to consider the representation at the earliest.

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

In view of the above, the writ petition is disposed of directing the 6th respondent to consider and dispose of representation submitted by the petitioner on 8th July, 2023 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 respondent, in accordance with law.

In the event encroachment upon PWD land or any portion thereof is found upon demarcation, the concerned authority shall initiate proceeding under Section 10 of the West Bengal Highways Act, 1964 and take the proceeding to its logical conclusion within the time frame mentioned above, 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.)