

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

28 04.11.2024
Sc Ct. no.2

WPA 919 OF 2024

Mousumi Das
Vs.
The State of West Bengal & Ors.

Mr. Prasanta Bishal
.... For the Petitioner
Ms. Debleena Dasgupta
.... For the Respondent
Nos. 1 to 10
Mr. Dip Jyoti Chakraborty
Mr. Karunamoyee Samanta.
.... For the Private
Respondent Nos.12 & 13

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

Mr. Prasanta Bishal, learned advocate appears for the petitioner.

Ms. Debleena Dasgupta, learned advocate appears for the respondent nos. 1 to 10.

Mr. Dip Jyoti Chakraborty, learned advocate appears for the private respondent nos. 12 and 13.

The petitioner complains of an alleged encroachment and unauthorized construction over a PWD land at the behest of the private respondents. The petitioner submitted a representation dated **November 2, 2023, Annexure-P3 at page 13** to the writ petition, but the same has not yet been considered.

Learned advocate for the petitioner has handed over copies of the notices dated **August 9, 2024** and **September 3, 2024** issued by the jurisdictional Assistant Engineer, PWD to the private respondents and also to the jurisdictional Sub-Divisional Magistrate/Officer, the same are taken on record. He submits that, despite notices the private respondents have not removed the encroachment and the matter is now pending consideration before the jurisdictional Sub-Divisional Officer.

Learned counsel appearing for the private respondents submits that they are staying on the subject land for about last fifty years.

Considering the rival contentions of the parties and upon perusal of the materials on record, the jurisdictional Sub-Divisional Officer is directed upon issuing prior notice of at least **seven days** to the petitioner and the private respondents and after giving them an opportunity of hearing to decide the issue and dispose of the said representation of the petitioner dated **November 2, 2023** as referred to above by passing a reasoned order in accordance with law.

The entire exercise as directed above, shall be carried out and completed by the jurisdictional Sub-Divisional Officer positively within a period of **six weeks** from the date of communication of this order. The reasoned order shall be communicated to the petitioner and the private respondents positively within a **further**

period of **two weeks** from the date of the said reasoned order to be passed.

It is made clear that, this Court has not gone into the merits of the claim of the petitioner or the private respondents. The petitioner and the private respondents shall be at liberty to urge whatever points they wish to urge by relying upon whatever records and documents they wish to rely upon before the jurisdictional Sub-Divisional Officer but the same shall not travel beyond the scope of the alleged encroachment of the PWD land.

In the event, the reasoned order confirms the alleged encroachment on the PWD land, the jurisdictional Sub-Divisional Officer and/or any other appropriate State authority shall take all necessary and consequential steps to give an immediate effect to the said reasoned order positively within a period of **six weeks** from the date of the said reasoned order to be passed, strictly in accordance with law.

It is made clear that, this order shall not create any right or equity in favour of the petitioner or the private respondents if they do not succeed to their respective claims before the jurisdictional Sub-Divisional Officer strictly in accordance with law.

Since affidavits are not called for, the allegations made in this writ petition are deemed not to have been admitted by the respondents.

With the above observations and directions this writ petition, **WPA 919 of 2024** stands ***disposed of***, without any order as to costs.

Photostat certified copy of this order, if applied for, be furnished expeditiously.

(Aniruddha Roy, J.)