

**30.09.2024**

Item No. 10

Crt.No.02

b.r.

**WPA 1165 of 2024**

***Nayan Chand Aditya***

***-vs-***

***The State of West Bengal & Ors.***

**Mr. Saibal Kumar Acharya**

**Mr. Pradip Paul**

**Ms. Renesa Dey**

**..... for the petitioner.**

**Mr. Sadhan Kurmar Haldar**

**Mr. S. Alam**

**...for the State-respondents.**

**Mr. Ashini Kumar Bera**

**.... Private Resp. nos. 9 to 12.**

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

The petitioner in this writ petition has prayed for implementation of the order dated **September 25, 2023** passed by **respondent no.2 at page-48** to the writ petition. The petitioner claims to be the owner of **Plot No. 419.**

Ms. Renesa Dey, learned advocate led by Mr. Saibal Acharya, learned counsel appearing for the petitioner submits that the said order of the **respondent no.2** dated **September 25, 2023** is clear and very well founded and the same shall be implemented.

Mr. Ashini Kumar Bera, learned counsel appearing for the private respondent nos. 9 to 12

submits that the private respondents are the occupiers of **Plot nos. 408 and 409**. The private respondents have already filed three writ petitions claiming a long term lease since they are the occupiers of **Plot nos. 408 and 409**. Yet, the prayer for long term lease has not yet been considered.

Mr. Sadhan Kumar Halder, learned State counsel appears for respondent nos. 1 to 8 submits that the respondent no.2 has passed its order dated **September 25, 2023** and the findings therein are very specific on the basis of the land records. The said order of the respondent no.2 should be implemented.

After considering the submissions made on behalf of the parties and upon perusal of the materials on record, on a close scrutiny of the said order dated **September 25, 2023** appearing at **page-48** to the writ petition, this Court is of the view that the said order is very well founded, well versed and well reasoned. The respondent no.2 while passing the said order has considered all the relevant materials and then came to its finding. The fact finding enquiry unless is so perverse on the face of the impugned order and shocking to the conscience of the Writ Court, the Writ Court shall not interfere with the said fact finding enquiry of the authority.

In so far as the contention of the private respondents that their prayer for long term lease is pending before the State authority, is not the subject matter of this Writ Petition. When specific finding has been arrived at by the respondent no.2 after causing a detailed fact finding enquiry upon encroachment on the Government land, if an encroachment is found on a Government land, the same must be removed forthwith in accordance with law, irrespective of whether any application for long term lease is pending or not. The prayer for long term lease may be considered by the appropriate State authority on its own merit, but for that there shall be no embargo in implementing and give an effect to the said order dated **September 25, 2023**.

In view of the above, this Court is of the firm view that the order dated **September 25, 2023** does not suffer from any infirmity or perversity and the same stands without any interference by this Court.

The **respondent no.2** shall take all necessary and consequential steps by directing the **respondent no.3** and/or any other appropriate State authority to give an immediate effect and to implement the said order dated **September 25, 2023** in accordance with law but positively within a period of **six weeks** from the date of communication of this order.

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 1165 of 2024** stands **disposed of**, without any order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties expeditiously, on compliance of usual legal formalities.

**(Aniruddha Roy, J.)**