

D/L.11.
April 8, 2024.
MNS.

WPA No. 2123 of 2023

Lutfor Rahaman Sardar and others
Vs.
The State of West Bengal and others

Mr. Sarwar Jahan,
Mr. Sayantan Hazra,
Mr. Omar Faruk Gazi

... for the petitioners.

Mr. Rupak Ghosh,
Mr. Ratul Das

...for the State-respondents.

Mr. Sounak Bhattacharya,
Mr. Tirthankar Mukherjee,
Ms. Madhurima Sarkar,
Ms. Urmi Biswas

...for the respondent nos. 10 to 15.

1. Affidavit-of-service filed in Court today be kept on record.
2. The grievance of the petitioners is that adjacent to the petitioners' property, which is the subject matter of dispute in a suit pending between the petitioners and the private respondents, there is situated a public property belonging to the PWD. It is alleged that the private respondents are encroaching upon such property also, by making unauthorised construction, due to which the petitioners made a complaint before the State

respondents, but the State respondents did not take any step in that regard.

3. Learned counsel appearing for the State respondents submits that it transpires that a portion of the property concerned is the subject matter of the suit before the civil court. However, it is fairly submitted that there is no objection in principle to take steps as directed by this Court.
4. Learned counsel for the private respondents contends that the allegations of the petitioners regarding unauthorised construction /encroachment pertain to the subject matter of the suit itself.
5. As rightly pointed out by learned counsel for the State-respondents, at page 21 of the writ petition has been annexed a sketch map furnished by the petitioners, which clearly delineates the portions which are respectively the subject matter of the suit and the subject matter of the present complaint.
6. Hence, the scope of consideration by the State-respondents is as to what portion of PWD property, if any, as distinguished from the private property of the petitioners, which is the subject matter of the suit, is under unauthorised construction by the private respondents.

7. As such, the State-respondents shall call for a report and enquire into the said question as indicated above. Upon such enquiry, if it is found that there has been an unauthorised encroachment/construction/occupation of a PWD property, as distinguished from the private property of the petitioners, which is the subject matter of the pending suit, the appropriate authority of the State- respondent shall take immediate steps for initiating a proceeding for removal of such encroachment in accordance with law.
8. Such exercise of enquiry and initiation of proceeding, it is expected, shall be undertaken within eight weeks from date. Thereafter, if any encroachment is *prima facie* found, a proceeding will be initiated in accordance with the appropriate provisions of law.
9. It is also expected that such proceeding, as and when and if initiated, shall be concluded at an early date, preferably within four months from its commencement.
10. It is made clear that both the contesting parties and other interested parties, if any, shall be given adequate opportunity of hearing and/or representation before the authority hearing such proceeding, if initiated.

11. In view of the above observations and directions, WPA No. 2123 of 2023 is disposed of.

12. There will be no order as to costs.

13. Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)