

27.11.2024

Item No. 23

Crt.No.02

b.r.

WPA 2355 of 2024

Sri Mathura Prasad Barai

-vs-

The State of West Bengal & Ors.

Mr. Tulshi Das Roy

Mr. Tirthankar Roy

.... For the petitioner.

Mr. Somnath Ganguli

Mr. Kalpita Paul

... for the State-Resp. nos. 1 to 4 and 6.

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

Mr. Tulshi Das Roy, learned counsel appears for the petitioner.

Mr. Somnath Ganguli, learned State counsel appears for the respondent nos. 1 to 4 and 6.

The rest of the respondents are not represented.

The petitioner complains of encroachment of his land by the Public Health Engineering Department. The petitioner submits that the entire boundary wall of the petitioner has been demolished illegally and without acquiring any portion of the petitioner's land. A water pipeline is under construction through the land of the petitioner.

The petitioner submitted its representation dated **December 16, 2023 at page-14** to the writ petition, the same has not been considered.

Mr. Somnath Ganguli, learned State counsel denies and disputes the submissions made on behalf of the petitioner. On instruction, he submits that the land of the petitioner has not been touched at all.

After considering the rival contentions of the parties and upon perusal of the materials on record, the petitioner shall serve a copy of this writ petition along with a copy of today's order upon the jurisdictional Block Land & Land Reforms Officer (B.L. & L.R.O.) forthwith. The jurisdictional B.L. & L.R.O. then upon issuing a prior notice to the petitioner shall cause a physical inspection of the land and the encroachment and shall inspect the same on the basis of the existing land records and then shall submit a report before the respondent no.3. Copy of the report with the sketch map shall also be submitted to the petitioner.

This entire exercise shall be carried out and completed by the jurisdictional B.L. & L.R.O. positively within a period of **four weeks** from the date of communication of this order.

The respondent no.3 after receiving the report of the B.L. & L.R.O. upon issuing a prior hearing notice of

at least **seven days** to the petitioner and after granting him an opportunity of hearing shall dispose of the said representation dated **December 16, 2023 at Page-14** to the writ petition by passing a reasoned order in accordance with law.

Such exercise shall be carried out and completed by the **respondent no. 3** positively within a period of **six weeks** from the date of receiving report from the B.L. & L.R.O. The reasoned order shall be communicated to the petitioner and the B.L. & L.R.O. positively within a further period of **two weeks** from the date of the said reasoned order shall be passed.

It is made clear that this Court has not gone into the merits of the rival contentions of the petitioner or of the State respondents. The petitioner shall be at liberty to urge whatever points he wishes to urge by relying upon whatever records and documents he wishes to rely upon before the **respondent no.3** but the same shall not travel beyond the scope of the said representation dated **December 16, 2023 at page 14** to the writ petition.

In the event, the reasoned order confirms the encroachment as alleged by the petitioner then the respondent no.3 and/or the appropriate State authority shall take all necessary and consequential steps to compensate the petitioner for the land of the petitioner

which has been utilized for public purpose without acquisition.

The compensation shall have to be paid and calculated strictly in accordance with law. The State shall also adapt the **Direct Purchase Policy** in the case.

This entire exercise shall be carried out and completed by the respondent no.3 and/or the appropriate State authority positively within a period of **six months** from the date of the said reasoned order to be passed.

It is made clear that this order shall not create any right or equity in favour of the petitioner, if the petitioner does not succeed to his claim before the respondent no.3 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 2355 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.)