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05.03.2024
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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 3031 of 2024

Alkesh Biswas
Vs.
The State of West Bengal & Ors.

Mr. Atis Kumar Biswas,
Ms. Mita Biswas,
Ms. Jyoti Agnolas,
Ms. Ritu Mondal
... for the petitioner

Mr. Saikat Chatterjee,
Ms. Oindrila Chatterjee
...for the State

Ms. Manali Biswas
...for the respondent no. 10

1. The petitioner alleges that the petitioner's mother gave a representation but to no avail, in respect of the private respondents having allegedly encroached, in an unauthorized manner, government properties adjacent to the petitioner's property.
2. Learned counsel appearing for the private respondent objects to the locus standi of the petitioner to prefer the present writ petition, since the representation annexed to the writ petition was made by the petitioner's mother and the petitioner was in no way involved in bringing the matter to the notice of the authorities.

3. Learned counsel for the State submits that there has been an order passed under Section 144 of the Criminal Procedure Code with regard to the property-in-question.

4. Learned counsel for the petitioner, in reply, submits that anybody having interest can come before the Court with an allegation as made in the writ petition. That apart, in paragraph no. 5 of the writ petition, it has been averred that the petitioner is looking after his mother.

5. The petitioner is justified in contending that insofar as the locus standi is concerned, anybody can bring a perceived irregularity to the notice of the court under Article 226 of the Constitution of India. That apart, since the petitioner's mother has preferred the representation and the petitioner represents her interest as well, there is no issue as regards the petitioner preferring the present writ petition. Even independently, the petitioner could have made the allegations as made in the writ petition.

6. Since no affidavits are invited, it is deemed that none of the allegations made in the writ petition are admitted by the respondents.

7. However, since an allegation of unauthorized construction on government property has been made, W.P.A. No. 3031 of 2024 is disposed of by

directing the respondent no. 2, that is, the District Magistrate, Murshidabad, to call for a report from the respondent no. 7, that is, the Block Development Officer, Nowda Block, with regard to whether the private respondent nos. 10 to 12 are in unauthorized occupation of any public/government property.

8. If so, the respondent no. 2 shall immediately initiate proceedings under the appropriate Act for removal of such unauthorized occupants.

9. It is made clear that the merits of the allegations and counter-allegations between the parties have not been gone into by this Court and it will be open to the appropriate authorities to take appropriate decision in accordance with law without being influenced in any manner by any of the observations made herein.

10. The report filed by the respondent no. 9 today be kept on record.

11. There will be no order as to costs.

12. Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance of all necessary formalities.

(Sabyasachi Bhattacharyya, J.)