

Court No. 2
08.8.2024
(Item No. 30)
(AB)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side
W.P.A. 3096 of 2024

Asmat Gazi
VS
The State of West Bengal & Ors.

Mr. Pankaj Halder
.... For the petitioner
Mr. Ayan Banerjee
Mr. Debapriya Chatterjee
.... For the State
Mr. Sounak Bhattacharya
Mr. Mrinal Kanti Ghosh
Mr. Sounak Mondal
Mr. Chandra Nath Sarkar
.... For respondent No. 7 to 9

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

Mr. Pankaj Halder, learned advocate appears for the petitioner.

Mr. Debopriya Chatterjee, learned advocate led by Mr. Ayan Banerjee, learned counsel appears for respondent Nos. 1 to 6.

Mr. Mrinal Kanti Ghosh, learned advocate appears for respondent Nos. 7 to 9.

The petitioner complains of alleged unauthorized construction and encroachment on P.W.D. land at the behest of the private respondents. The petitioner submitted a representation dated **February 2, 2024** before the respondent No. 4 but the same has not been considered.

Mr. Ghosh, learned counsel appearing for private respondents has denied and disputed the submissions of the petitioner. He submits that, as

per the petitioner L.R. plot No. 805 is the P.W.D. road whereas the land record shows the entire 60 decimals land including the said land as alleged by the petitioner belongs to various rayats.

In view of the above, the respondent No. 4 upon issuing a prior hearing notice to the petitioner and the private respondents shall cause a physical inspection of the alleged unauthorized construction and encroachment and then after granting them an opportunity of hearing shall decide the said representation dated **February 2, 2024**, 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 respondent No. 4 positively within a period of **six weeks** from the date of communication of this order. The reasoned order then 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 claims or rival claims of the parties in any manner. The parties 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 respondent No. 4 but the same

shall not travel beyond the scope of the said representation dated **February 2, 2024**.

It is needless to mention that, in the event, the respondent No. 4 requires any assistance with regard to the land record he shall call upon the same from the respondent No. 5 and the respondent No. 5 shall co-operate and produce all land records before the respondent No. 4.

In the event, reasoned order confirms, the unauthorized encroachment and construction the respondent No. 4 shall immediately within a period of seven days from the date of said reasoned order to be passed shall refer the matter before the respondent No. 3 and the respondent No. 3 shall take all necessary and consequential steps to give an immediate effect to the said reference but preferably within a period of **six weeks** from the date of receipt of such reference from the respondent No. 4.

It is made clear that, this order shall not create any right or equity in favour of either the petitioner or the private respondents, if they do not succeed to their respective contentions 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 3096 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.)