

05.11.2024

Item No. A-34

Crt.02

b.r.

WPA 3362 of 2024

Raghunath Das

-vs-

The State of West Bengal & Ors.

Mr. Kamal Mishra

Mr. Pratap Sanfui

.... For the petitioner.

Mr. Soumitra Bandyopadhyay

Mr. Priyabrata Batabyal

.... For the State.

Affidavit of service filed in court today is taken on record.

Mr. Kamal Mishra , learned counsel appears for the petitioner.

Mr. Priyabrata Batabyal, learned State advocate led by Mr. Soumitra Bandyopadhyay, learned State counsel appears for the respondents nos. 1 to 7.

None appears for the respondent nos. 8 to 10, despite notice.

The petitioner complains of an unauthorized construction and encroachment on a public land at the behest of the private respondents. The petitioner submitted a representation dated

January 2, 2024 **at page 31** to the writ petition, the same has not been considered.

After considering the submissions made on behalf of the parties and upon perusal of the materials on record, the respondent no. 6 upon issuing notice to the petitioner and the private respondents shall cause a physical inspection of the alleged unauthorized construction and encroachment and then shall file a report. Copies of the report shall be served upon the petitioner, the private respondents and upon the respondent no. 4

This exercise shall be carried out and completed by the respondent no. 6 positively within a period of **six weeks** from the date of communication of this order.

After receiving the report from the respondent no. 6 the respondent no. 4 then upon issuing a notice of hearing of at least **seven days** to the petitioner and the private respondents and after granting them an opportunity of hearing shall dispose of the said representation of the petitioner dated **January 2, 2024 at page 31** to the writ petition, as referred to above, by passing a reasoned order in accordance with law.

The entire exercise shall be carried out and completed by the respondent no. 4 positively within a period of **six weeks** from the date of receipt of the report from the respondent no. 6 and the reasoned order shall be communicated to the petitioner and the private respondents positively within a further period of **one week** from the date of the reasoned order to be passed.

It is made clear that this court has not gone into the merits of the rival contentions of the petitioner and the private respondents and they 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 **January 2, 2024 at page 31** to the writ petition.

In the event the reasoned order confirms encroachment on PWD land then the respondent no. 4 shall take all consequential and necessary steps to give an immediate effect to the said reasoned order in accordance with law but positively within a period of **three weeks** 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

or in favour of the private respondents, if they do not succeed to their respective claims before the respondent no. 4, 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 3362 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.)