

04.11.2024

Item No. 35

Crt.No.02

b.r.

WPA 3470 of 2024

Rabin Das & Ors.

-vs-

The State of West Bengal & Ors.

Mr. Kamal Mishra

Mr. Pratap Sanfui

.... For the petitioner.

Mr. Chandi Charan De, Ld. AGP

Mr. Haripada Maity

Mr. Anirban Sarkar

.... For the State.

Mr. Masud Malick

... for the private resp. nos. 8 to 10.

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

Mr. Kamal Mishra, learned advocate appears for the petitioners.

Mr. Chandi Charan De, learned Additional Government Pleader appears for the respondent nos. 1 to 7.

The petitioners complain of an alleged encroachment and unauthorized construction on the PWD land at the behest of the private respondents. The petitioners submitted a representation dated **January 15, 2024, annexure**

p-3 at page-53 to the writ petition, but the same has not yet been dealt with.

Mr. Masud Malick, learned advocate appears for the private respondent nos. 8 to 10 submits that there has been no encroachment at all. He further submits that the structure has been made on a portion of land which has not at all been acquired and does not belong to PWD at all.

In view of the above, the jurisdictional Block Land and Land Reforms Officer (B.L. & L.R.O) upon prior notice to the petitioners and the private respondents shall cause a physical inspection of the alleged encroachment and construction and shall submit his report before the petitioners, private respondents and the jurisdictional Assistant Engineer, PWD.

This 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.

In the event such report confirms the alleged encroachment and construction on the PWD land then the Jurisdictional Assistant Engineer, PWD after issuing a prior hearing notice of at least **seven days** to the petitioners and the private respondents

and after giving them an opportunity of hearing shall decide the said representation dated **March 31, 2022** as referred to above by passing a reasoned order in accordance with law.

The entire exercise shall be carried out and completed by the jurisdictional Assistant Engineer, PWD positively within a period of **six weeks** from the date of receiving report from the jurisdictional B.L. & L.R.O. The reasoned order shall be communicated to the petitioners and the private respondents positively within a 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 case of the petitioners or 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 jurisdictional Assistant Engineer, PWD.

In the event, the reasoned order confirms the alleged unauthorized construction and encroachment, the jurisdictional Assistant Engineer, PWD shall communicate the order to the jurisdictional Sub-Divisional Officer positively within a period of **three weeks** from the date of the

said reasoned order to be passed, who shall take all necessary and consequential steps to give an immediate effect to the said reasoned order in accordance with law, positively within four weeks from the date of receiving the reasoned order from the Assistant Engineer, PWD.

This order shall not create any right or equity in favour of the petitioners and in favour of the private respondents, if they do not succeed to their respective claims before the jurisdictional Assistant Engineer, PWD 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 3470 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.)