

13.12.2024
Ct. no.2
SL. No.25
Moumita

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

WPA 3597 OF 2024

Subrata Mondal
Vs.
The State of West Bengal & Ors.

Mr. Tarun Kumar Das
Mr. Dilip Kumar Shyamal
....For the petitioner

Mr. Asim Kumar Ganguli, Ld. AGP
Ms. Sukla Das Chandra
.... For the State Respondent

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

Mr. Tarun Kumar Das, learned counsel appears for the petitioner.

The petitioner from its predecessors-in-interests is in possession of a portion of land since about Bengali Year 1333 whereupon is cultivating, as would appear from the record of rights **at page 17** to the writ petition. The petitioner claims settlement of portion of the land under his occupation and possession in his favour. Several applications made from time to time no it was paid thereto.

Ms. Sukla Das Chandra, learned State counsel appears for the respondents.

Learned state counsel files a report dated **February 16, 2024** signed by the **Executive Engineer PHE, Tamluk Division** the same is taken on record.

She further submits that the land records show that the portion of land claimed to have been under occupation by the petitioner is undoubtedly a vested land. The petitioner is not in possession of the said portion of land at all.

In reply learned counsel for the petitioner has denied and disputed the contentions of the State. She further submits that a water treatment project of the state for the public purpose at large is proposed to be set up on the same portion of land and the state is proceeding to start the said project on the subject land.

In view of the above, the respondent no. 5 upon issuing a prior notice of hearing of at least **seven days** to the petitioner and the respondent no. 8 and after granting them an opportunity of hearing shall decide whether the portion of land of which petitioner claims to be in possession is vested or not and whether any portion of it can be settled in favour of the petitioner.

The entire exercise shall be carried out and completed by the respondent no. 5 positively within a period of **six weeks** from the date of

communication of this order. The reasoned order shall be communicated within a period of **one week** 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 rival contentions of the petitioner or the state 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.5.

In the event, the reasoned decision goes against the petitioner then the respondent no. 5 shall refer the matter before the jurisdictional authority positively within **one week** from the date of the reasoned order to be passed and the jurisdictional authority shall take all necessary and consequential steps to give an effect to the said reasoned order in accordance with law but positively within a period of **four weeks** from the date the matter shall be referred to him/her.

It is made clear that this order shall not create any right or equity in favour of the petitioner and if the petitioner does not succeed to his claims before the respondent no. 5 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 3597 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.)