

24 19.9.2024
Sc Ct. no.2

WPA 4061 OF 2024

Gobardhan Hutait & Ors.

Vs.

The State of West Bengal & Ors.

Mr. Anit Kumar Das
Ms. Ruphsa Chakraborty.

... For the Petitioners

Mr. Anand Farmania
Mr. Indumouli Banerjee.

.... For the Respondent
Nos. 1 to 5

Ms. Sumita Sarkar

.... For the Respondent
Nos. 6 to 22 & 24

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

Mr. Anit Kumar Das, learned advocate appears for the petitioners.

Mr. Anand Farmania, learned State advocate appears for the respondent nos. 1 to 5.

Ms. Sumita Sarkar, learned advocate appears for the private respondent nos. 6 to 22 and 24.

The private respondent no.23 is not represented, despite notice.

The petitioners complain of an alleged illegal and unauthorized construction on the PWD land at the behest of the private respondent nos.6 to 24. The petitioners submitted a representation dated **January 2, 2024**,

Annexure-P3 at page 18 to the writ petition, the same has not been considered.

Learned advocate appearing for the respondent nos. 6 to 22 and 24 submits that, they are carrying their respective shop rooms from the place in respect whereof the petitioners have alleged the unauthorized and illegal construction upon encroachment of the PWD land. The private respondents submit that, they are carrying out their respective shop rooms since long. The private respondents have their respective Trade Licenses, and electricity supply. They further submit that, the petitioners' dwelling place is far away from the said shop rooms.

After considering the rival contentions of the parties and upon perusal of the materials on record to sub-serve justice, the respondent no.2 is directed to serve at least a **seven** days' prior hearing notice upon the jurisdictional Block Land & Land Reforms Officer (BL&LRO), the petitioners and all the private respondent nos. 6 to 24 and to cause a physical inspection of the alleged unauthorized construction and structure on the PWD land.

The BL&LRO shall cooperate in every respect and if necessary shall produce all the land records before the respondent no.2.

The respondent no.2 then shall issue a further prior notice of hearing of at least **seven** days to the

petitioners and the private respondent nos. 6 to 24 and after giving them an opportunity of hearing shall dispose of the said representation of the petitioner dated **January 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.2 **positively** within a period of **eight weeks** from the date of communication of this order. The reasoned order shall be communicated to the petitioners and all 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 rival contentions of the parties, as recorded above and the petitioners and all the private respondent 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.2 but the same shall not travel beyond the scope of the representation dated **January 2, 2024**, as referred to above.

In the event, the reasoned order confirms the unauthorized structure, illegal construction and encroachment upon the PWD land, then the respondent no.2 and the other appropriate and jurisdictional authority of the State shall take all consequential and

necessary steps in accordance with law to give an immediate effect to the said reasoned order but ***positively*** within a period of ***six weeks*** from the date of communication of the said reasoned order to such appropriate authorities.

It is made clear that, this order shall not create any right or equity in favour of the petitioners or the private respondents, if they do not succeed to their respective claims before the respondent no.2 strictly in accordance with law.

In the event, any assistance is sought for from the respondent no.5 to give immediate effect to the said reasoned order, such assistance shall immediately be provided to the appropriate authorities.

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 4061 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.)