

16.12.2024
Ct. no. 2
SL. No. 15
Moumita

WPA 9572 OF 2024

Avijit Das

Vs.

The State of West Bengal & Ors.

**Mr. Dilip Kumar Shyamal
Mr. Gourab Ghosh.**

... For the Petitioner

**Mr. Soumitra Bandyopadhyay, Sr. Govt. Adv.
Mr. Priyabrata Batabyal**

.... For the State/Respondents Nos. 1 to 11

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

Mr. Gourab Ghosh led by Mr. Dilip Kumar Shyamal, learned counsel appears for the petitioner.

Mr. Priyabrata Batabyal led by Mr. Soumitra Bandyopadhyay, learned State counsel appears for the respondent nos. 1 to 11.

The private respondent nos. 12 to 16 are not represented, despite notice.

The petitioner complains of an alleged illegal and unauthorized construction and encroachment on a portion of the **National Highway** land, **NH-117** at the behest of the private respondents. The petitioner submitted a representation dated **November 22, 2023, Annexure-P2 at page 23** to the writ petition, the same has not yet received attention.

Considering the submissions made on behalf of the parties and upon perusal of the materials on record, the respondent no.9 upon issuing prior notice to the petitioner and the private respondents shall cause a physical inspection of the alleged encroachment and shall file a report before the respondent no.6 positively within a period of **two weeks** from the date of communication of this order.

The respondent no.6 is directed then upon issuing a prior notice of hearing of at least **seven days** to the petitioner and the private respondents and after giving them an opportunity of hearing to decide the said representation of the petitioner dated **November 22, 2023, Annexure-P2 at page 23** to the writ petition 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.6 positively within a period of **six weeks** from the date of receiving the report from the respondent no.9. The reasoned order 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 by the respondent no.6.

It is made clear that, this Court has not gone into the merits of the claim and rival claim of the parties 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.6 but the same shall not travel beyond the scope of the representation dated **November 22, 2023**.

In the event, the reasoned order confirms the alleged encroachment, then the respondent no.6 shall communicate its reasoned order to the respondent no.5 within a period of **two weeks** from the date of the reasoned order to be passed and the respondent no.5 shall take all necessary and consequential steps to give an immediate effect to the said reasoned order in accordance with law but positively within a period of **four weeks** from the date of communication of the reasoned order by the respondent no.6.

It is made clear that, this order shall not create any right or equity in favour of 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 9572 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.)