

08.08.2024

Item No. 31

Crt.No.02

b.r.

WPA 11887 of 2024

Manoranjan Maji & Anr.

-vs-

The State of West Bengal & Ors.

Mr. Laxminath Bhattacharyya

Mr. Rajib Kar

Ms. Mousumi Ranjan Das

Mr. Banshi Badan Maity

.... For the petitioners.

Mr. Chandi Charan De. Ld. AGP

Ms. Reshma Chatterjee

.... For the State.

Md. Sabir Ahmed

Mr. Tasnim Ahamed

Mr. Dhiman Banerjee

... for the Resp. nos. 8 to 10.

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

Mr. Laxmi Nath Bhattacharyya, learned advocate appears for the petitioners.

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

Md. Sabir Ahamed, learned counsel, appears for the respondent nos. 8 to 10.

The petitioners complain of an alleged unauthorized construction and encroachment of a public land at the behest of the private respondents. The petitioners submitted a representation dated **March**

27, 2024 before the **respondent no.5, annexure p-2 at page-17** to the writ petition, the same has not been considered.

Learned counsel for the private respondent nos. 8 to 10 referring to the land map at **page-18** to the writ petition submits the construction is not an encroachment and it is far away from the high way. In between the alleged construction and the high way Nayanjuli is situated. The private respondents deny and dispute the submissions made on behalf of the petitioners.

Considering the rival contentions of the parties and upon perusal of the materials on record, the **respondent no.5** is directed upon prior notice to the petitioners and the private respondents to cause a physical inspection of the alleged encroachment and unauthorized construction and then after affording them an opportunity of hearing to dispose of the representation dated **March 27, 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.5** positively within a period of **six weeks** from the date of communication of this order. The reasoned order shall then be communicated to the petitioners and 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 submissions of the parties. The parties 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.

It is made clear that in the event, the reasoned order confirms the encroachment and unauthorised construction on the public land then the **respondent no.5** shall refer the matter before the **respondent no.4** positively within a period of **two weeks** from the date of the said reasoned order to be passed.

The respondent no.4 then positively within a period of **six weeks** from the date of receipt of such reference from 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.

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 contentions before the respondent no.5 strictly in accordance with law.

In the event, at any stage, the respondent no.5 or the private respondent no.3 is required assistance of the land records they may request the respondent no.6 for production of all the relevant land records and the respondent no.6 shall do so forthwith.

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 11887 of 2024** stands **disposed of**, without any order as to costs.

(Aniruddha Roy, J.)