

06.06.2024
Item No.29
gd/ssd

WPA/15223/2024
NANDA GOPAL SAHA
VS
STATE OF WEST BENGAL AND ORS.

Mr. Sudip Deb,
Ms. Ipsita Ghosh
..for the Petitioner.

Mr. Vimal Kumar Sahi,
Ms. Rupsha Chakraborty,
Mr. Bipin Guha
..for the State.

Affidavit of service filed today is taken on record.

Mr. Sudip Deb, learned counsel appearing for the writ petitioner referring to a representation **dated May 27, 2024, Annexure P-14 at page 76** to the writ petition submits that the petitioner is carrying a small grocery shop with godown on his land and he is not the encroacher of any portion of the State Highway Land. He alleges that encroachers, who have encroached the portion of the State Highway Land, are obstructing the free egress and ingress of the petitioner to his grocery shop and godown. The encroachers are impleaded as the private respondents in this writ petition.

Mr. Vimal Kumar Sahi, learned State counsel appears for the respondent nos.1 to 11.

After considering the submissions made on behalf of the parties and upon perusal of the materials on record, at the outset it appears to this court that **Section 10 of the West Bengal Highways Act, 1964** provides for removal of encroachment by the appropriate authority. The respondent no.4 is the appropriate authority for deciding the said encroachment and the removal thereof.

Accordingly, the respondent no.4 upon issuing a prior notice of hearing of at least seven days to the petitioner and the private respondent nos.13 to 18 and after giving them an opportunity of hearing shall decide the issue on the basis of the representation of the petitioner **dated May 27, 2024, Annexure P-14 at page 76** to the writ petition by passing a reasoned order in accordance with law.

The petitioner shall serve a copy of this writ petition upon the respondent no.4.

The entire exercise as directed above shall be carried out and completed by the respondent no.4 positively within a period of six weeks from the date of communication of this order and the respondent no.4 then shall communicate its reasoned order within a further period of two weeks to the petitioner and the private respondents.

While considering the issue the respondent no.4 shall take into consideration the **Memo bearing**

No.513 dated October 21, 2009 at page 34 to the writ petition.

It is made clear that this court has not gone into the merits of the claim of the petitioner in any manner.

The petitioner and the private respondents shall be at liberty to urge whatever points they wish to urge before the respondent no.4 by relying upon whatever documents and records they wish to rely upon.

This order shall, however, not create any right or equity in favour of the petitioner, if the petitioner is not eligible to receive his claim strictly in accordance with law.

In the event the reasoned decision goes in favour of the petitioner and the encroachment is found by the respondent no.4, then the appropriate State Authorities shall take steps and remove such encroachment positively within a period of four weeks from the date of communication of the reasoned order to the petitioner and the private respondents, in accordance with law. The respondent No.11 and/or the District Police authority shall render all assistance to the Highway authority in this regard.

In so far as the next allegation of the petitioner is concerned against the police authority

that the police authority has failed to protect the petitioner's livelihood, the petitioner shall be at liberty to apply before the jurisdictional police authority seeking police protection and posting police picket upon payment of usual charges.

In the event such application is submitted by the petitioner with the appropriate charges, the respondent No.11 shall render necessary police protection in accordance with law to the petitioner.

However, the respondent no.11 shall also ensure that peace is maintained at the locale.

Since affidavits are not called for, the allegations made in the writ petition are deemed not to have been admitted by the respondents.

With the above observations and directions, this writ petition, **WPA 15223 of 2024** stands **disposed of** without any order as to costs.

Urgent certified copy of this order, if applied for, be given to the learned advocates for the parties on usual formalities.

(ANIRUDDHA ROY, J.)