

Court No. 2
15.7.2024
(Item No. 27)
(AB)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side
W.P.A. 15447 of 2024

Buddhadeb Mondal
VS
The State of West Bengal & Ors.

Mr. Dilip Kumar Shymal
Mr. Gourab Ghosh
.... For the petitioner
Sk. Md. Galib
.... For the State

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

Mr. Gourab Ghosh, learned advocate appears for the petitioner.

Sk. Md. Galib, learned State counsel appears for respondent Nos. 1 to 3 and respondent Nos. 7 to 11.

The private respondent Nos. 4 to 6 and respondent No. 12 are not represented, despite notice. The law presumes that, they do not intend to oppose this writ petition.

The petitioner complains of alleged encroachment at the behest of the private respondent No. 12 in respect of a portion of the National Highway NH 117. The petitioner complains of that, due to such alleged encroachment the regular egress and ingress of the petitioner is hindered. The petitioner submitted his representation dated **May 6, 2024**,

inter alia, before the respondent No. 5, **annexure P-2** at **page 19** to the writ petition but the same has not been considered.

After considering the submissions of the parties and upon perusal of the materials on record the respondent No. 5 is directed upon prior notice to the petitioner and the private respondent No. 12 to cause a local inspection with regard to the alleged encroachment and then after granting them an opportunity of hearing shall dispose of the said representation dated **May 6, 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 respondent No. 5 then shall communicate its reasoned order to the petitioner and the private respondent No. 12 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 claim of the petitioner in any manner and the petitioner and the private respondent No. 12 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 order confirms the said alleged encroachment on the highway land then the respondent No. 5 and/or the appropriate jurisdictional National Highway authority 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 **eight weeks** from the date of the said reasoned order to be passed.

It is made clear that, this order shall not create any right or equity in favour of the petitioner, if the claim of the petitioner does not succeed 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 15447 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.)