

14.06.2024
Ct. No. 2
Sl. No. 85
tbsr

WPA 14700 of 2023

**Narayan Chandra Adhikary
Vs.
State of West Bengal & Ors.**

Mr. Amar Nath Sen
Mr. Souvik Naskar
Mr. Amit Bikram Mahata
....for the petitioner

Ms. Amrita Panja Moulick
....for the respondent nos. 3, 4, 7, 8 & 9

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

Mr. Amar Nath Sen, learned counsel appears for
the petitioner.

Ms. Amrita Panja Moulick, learned State counsel
appears for respondent nos. 3, 4, 7, 8 & 9.

None appears for the Pradhan of the concerned
Panchayat, the respondent no. 10 herein, despite notice.
The reasonable presumption in law is that he does not
intend to defend the writ petition.

The petitioner complains that upon
encroachment of a portion of his residential land the
Panchayat alleged to have constructed road. Learned
counsel for the petitioner submits that there was no

acquisition or requisition proceeding initiated in respect of the said piece of land, ever.

Drawing attention to a representation dated **May 29, 2023, Annexure P/2 at Page 18** to the writ petition.

Learned counsel for the petitioner submits that though the representation and complaint was lodged before the authorities including the Pradhan of the relevant Gram Panchayat, the same has not yet received any attention.

Since despite notice, the Pradhan of the Gram Panchayat choose not to be represented in this writ petition, the law presumably shows that the Pradhan does not wish to defend this writ petition.

In view of the above, to sub-serve justice, the respondent no. 7 upon issuing a prior hearing notice of at least 7 days to the petitioner and the Pradhan of the relevant Gram Panchayat and after affording them an opportunity of hearing shall decide the representation made on behalf of the petitioner dated **May 29, 2023, Annexure P/2 at page 18** to the writ petition by passing a reasoned order.

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 Pradhan 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. 7.

The entire exercise as directed above shall be carried out and completed by the respondent no. 7 positively within a period of **six weeks** from the date of communication of this order. The respondent no. 7 then shall communicate the reasoned order to the petitioner and the Pradhan positively within a further period of **two weeks** from the date of the said reasoned order to be passed.

In the event, the reasoned order goes in favour of the petitioner and the encroachment is found to be true by construction of the road illegally on the portion of the petitioner's land then the respondent no. 7 shall take all necessary and consequential steps in accordance with law and inform the petitioner in writing positively within a further period of **two weeks** from the date of communication of the reasoned order to the petitioner.

It is made clear that, this order shall not create any right or equity in favour of the petitioner, in the event the petitioner is not eligible to receive his claim in terms of his said representation 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 directions and observations, this writ petition **WPA 14700 of 2023** stands **disposed of**, without any order as to costs.

Urgent certified photo copy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Aniruddha Roy, J.)