

16.07.2024
Ct. No. 2
Sl. No. 21
tbsr

WPA 15866 of 2024

**Amerun Bibi & Ors.
Vs.
State of West Bengal & Ors.**

Mr. S.P. Pahari
Mr. Amaresh Pradhan
Mr. Tapan Kumar Mahapatra
.....for the petitioners

Mr. Chandi Charan De
Mr. Anirban Sarkar
....for the State

Mr. Sabir Ahmed
Mr. T. Ahmed
Mr. Dhiman Banerjee
....for the respondent nos. 8 to 10

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

Mr. Amaresh Pradhan, learned advocate appears
for the petitioners.

Mr. Chandi Charan De, learned Additional
Government Pleader appears for the respondent nos. 1 to
6.

Mr. Dhiman Banerjee, learned advocate appears
for the private respondent nos. 8 to 10.

The petitioners complain of alleged encroachment
of a piece of public land at the behest of the private
respondents. The petitioners submitted a representation
dated **March 7, 2024, Annexure P-2 at page 21** to the

writ petition, *inter alia*, before the respondent no. 3 and the same has not yet been considered.

Drawing to a communication issued by the Pradhan of the concerned Panchayat dated **February 1, 2023, Annexure P-3 at page 26** to the writ petition, learned counsel for the petitioners submits that, the Panchayat has also confirmed the unauthorized encroachment on the public land.

Learned counsel appearing for the private respondents submits that, no document has been enclosed with the writ petition in support of such encroachment at the behest of the private respondents and on the basis of complaint made by the petitioners an earlier opportunity of hearing was granted by the jurisdictional Block Development Officer to the private respondents but the Development is not known to the learned counsel right now.

He further submits that, the private respondents are paying the property tax since long. The record of rights reflects the name of the private respondents on the subject piece of land.

Learned Additional Government Pleader submits that the respondent no. 3 is the jurisdictional authority to decide the issue.

Considering the rival contentions of the parties and upon perusal of the materials on record, the

respondent no. 3 is directed upon giving prior notice to the petitioners and the private respondents to cause a physical inspection of the alleged encroachment and then upon granting them an opportunity of hearing in presence of the jurisdictional Block Development Officer shall decide the said representation dated March 7, 2024 as referred to above by passing a reasoned order in accordance with law.

The entire exercise, as directed above, shall be carried on by the Block Development Officer positively within a period of **six weeks** from the date of communication of this order. The Block Development Officer then shall communicate the reasoned order to the petitioners and the private respondents positively within a period of **two weeks** from the date of the said reasoned order to be passed.

It is made clear that this Court is not gone into the merits of the rival claims of the parties and the petitioners and the private respondents 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. 3 but the same shall not travel beyond the scope of the said representation dated March 7, 2024.

In the event, the reasoned order confirms such encroachment on the public land then the respondent

no. 3 shall take all necessary steps to give an immediate effect thereto strictly in accordance with law but positively within a period of **six weeks** from the date of communication of the said order to the parties.

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 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 15866 of 2024** stands **disposed of**, without any order as to costs.

In the event, any assistance is sought for by the respondent no. 3 to give effect to the reasoned order, the respondent no. 6 shall render all necessary assistance in accordance with law.

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.)