

Court No. 2
16.12.2024
(Item No. 18)
(AB)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. 16044 of 2024

Chandan Kumar Maiti
VS
The Union of India & Ors.

Mr. Raj Kumar Sain
.... For the petitioner
Ms. Priyanka Tibriwal
Mr. Ayanabha Raha
Mr. Navneet Yang Lama
.... For Union of India
Ms. Paromita Banerjee
Ms. Subika Paul
Mr. Sayan Dey
.... For respondent Nos. 2 & 3
Mr. Ziaul Haque
Ms. Sahina Khatun
.... For private respondent No. 8

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

Mr. Raj Kumar Sain, learned advocate appears for the petitioner.

Mr. Ayanabha Raha, leaned advocate appears for respondent No. 1.

Mr. Ziaul Haque, learned advocate appears for respondent No. 8.

Ms. Subika Paul, learned advocate appears for respondent Nos. 2 and 3.

The State respondent Nos. 4 to 7 are not represented, despite notice.

The petitioner complains of an alleged encroachment and unauthorized construction on a

portion of National Highway land at the behest of the private respondent No. 8. The petitioner submitted a representation dated **June 3, 2024, Annexure P-2 at page-30** to the writ petition, but the same has not yet been disposed of.

The learned counsel appearing for the private respondent No. 8 has denied and disputed the allegations of the petitioner. He submits that, the construction has been made on his own rayati land and not by encroachment of any State land.

In view of the above, the jurisdictional Block Land and Land Reforms Officer (B.L. & L.R.O) upon issuing a prior notice to the petitioner, private respondent and the respondent No. 3 or a responsible officer to be delegated by the respondent No. 3 shall cause a physical inspection of the alleged encroachment and structure and shall prepare a report with a detailed sketch map and submit the same before the Jurisdictional Project Director, NHAI. Copy of the said report with the sketch map shall also be furnished before the petitioner and private respondent No. 8.

This exercise shall be carried out and completed by the jurisdictional B.L. & L.R.O. positively within a period of **four weeks** from the date of communication of this order.

After receiving the report from the B.L. & L.R.O. the respondent No. 2 upon issuing a prior hearing notice to the petitioner and the private respondent and after granting them an opportunity of hearing shall dispose of the said representation dated **June 3, 2024, annexure P-2 at page 30** to the writ petition by passing a reasoned order in accordance with law.

This exercise shall be carried out and completed by the respondent No. 2 positively within a period of **six weeks** from the date of receiving the report from the B.L. & L.R.O. and the reasoned order shall be communicated to the petitioner and the private respondent 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 has not gone into the merit of the rival contentions of the petitioner or the private respondent and they 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 jurisdictional Project Director, NHAI but the same shall not travel beyond the scope of the said representation dated **June 3, 2024** as referred to above.

In the event, the reasoned order confirms the alleged unauthorized construction and encroachment

on the National Highway land and any operation of it, the respondent No. 2 and/or appropriate authorities shall take all necessary and consequential steps to give an immediate effect to the said reasoned order but positively within a period of **four 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 and in favour of the private respondent, if they do not succeed to their respective claims before the Jurisdictional Project Director, NHAI 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 16044 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.)