

662
jdt. 29.01.2024
jb.

W.P.A. 16636 of 2023
(Smt. Durga Jana vs. Union of India & Ors.)

Ms. Malyasree Maity
... For the Petitioner
Ms. Chandrayee Alam
Ms. Runu Mukherjee
... For the Union of India
Ms. Monika Roy
Ms. Srinjia Ray
... For the NHAI
Mr. S. S. Bayerd
Mr. Yudhir Maity
.... For the Respondent No. 7

Affidavit of service filed on behalf of the petitioner
is taken on record.

None appears for the State respondents despite
service.

Mr. Chandi Charan De who is present in Court
and usually appears for the State is requested to
represent the State in this matter along with a junior of
his choice. The appointment of Mr. De, learned advocate
and Mr. Anirban Sarkar, learned advocate be
regularised by the office of the learned Legal
Remembrancer. Copy of the writ petition along with
annexure thereto be served upon Mr. De in course of
the day.

The petitioner claims to be recorded owner of a
portion of the plot in question and complains that the
private respondent raised unauthorised construction by

encroaching upon a portion of the National Highway adjoining her property, thereby obstructing her egress and ingress and also the front portion of her property. The petitioner submitted a representation before the concerned authority in this regard on 27th June, 2023 which is yet to be considered. The petitioner prays for a direction upon the authority to consider the representation at the earliest.

The allegation of the petitioner is two fold:-

Encroachment upon the National Highways, thereby obstructing her egress and ingress and encroachment upon her private property by the private respondent.

The alleged encroachment upon the petitioner's property by the private respondent cannot be dealt with by this Court in exercising jurisdiction under Article 226 of the Constitution of India.

In so far as the encroachment upon the National Highway is concerned, the concerned authority being the 5th respondent herein is directed to consider and dispose of the representation submitted by the petitioner dated 27th June, 2023 in so far as the alleged encroachment upon the National Highway is concerned within three months from the date of communication of this order upon affording reasonable opportunity of hearing to all interested persons including the petitioner and the private respondent, in accordance with law.

The writ petition is thus disposed of.

There shall be no order as to costs.

Since no affidavit has been invited, allegations contained in the writ petition shall be deemed not to have been admitted.

Urgent certified website copy of the order, if applied for, be given to the parties on compliance of requisite formalities.

(Suvra Ghosh, J.)