

30.09.2024
Ct. No. 2
Sl. No. 13
tbsr

WPA 17678 of 2024

Sudam Gayen
Vs.
State of West Bengal & Ors.

Mr. Biswarup Biswas
Mr. Nirmalendu Bera
Mr. Gora Chand Samanta
....for the petitioner

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

Mr. Debabrata Acharyya
Mr. Sital Samanta
....for the respondent nos. 10 & 11

Two affidavits of service, filed in court today, are taken on record.

Mr. Biswarup Biswas, learned counsel appears for the petitioner.

Mr. Chandi Charan De, learned Additional Government Pleader appears for the respondent nos. 1 to 9.

Mr. Debabrata Acharyya, learned counsel appears for the private respondent nos. 10 and 11.

The petitioner complains of an alleged unauthorized structure and encroachment upon PWD land at the behest of the private respondents. The petitioner submitted its representation dated **June 26,**

2024, Annexure P-3 at page 18 to the writ petition, the same has not yet been attended.

Learned counsel appearing for the private respondent nos. 10 and 11 submits that they have not at all encroached any portion of the PWD land.

In view of the above, the jurisdictional Block Land and Land Reforms Officer (BL & LRO) is directed upon notice to the petitioner, the respondent no. 5 and the private respondents to cause a physical inspection of the alleged encroachment and to prepare a report. The report shall be served upon the petitioner, the respondent no. 5 and the private respondents.

This exercise shall be carried out and completed by the jurisdictional BL&LRO positively within a period of **three weeks** from the date of communication of this order.

If the inspection report confirms encroachment of PWD land, then the respondent no. 5 upon issuing a prior hearing notice of at least **seven days** to the petitioner and the private respondents after granting them an opportunity of hearing shall dispose of the said representation dated June 26, 2024, as referred to above, by passing a reasoned order in accordance with law.

The entire exercise shall be carried out and completed by the respondent no. 5 positively within a

period of **six weeks** from the date of receiving the inspection report from the BL&LRO. The reasoned order shall be communicated to the petitioner, the respondent no. 5 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 has not gone into the merits of the rival claims of the petitioner or the private respondents and there shall be free 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.

It is made clear that, this order shall not create any right of equity in favour of the petitioner or the private respondents, if they do not succeed to their respective claims strictly in accordance with law.

In the event, the encroachment is further confirmed, if the reasoned order to be passed by the respondent no. 5 then the respondent no. 5 shall send the reasoned order before the respondent no. 6 positively within a period of **two weeks** from the date of the said reasoned order to be passed and the respondent no. 6 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 **six weeks** from the date of

receipt of the said reasoned order from the respondent no. 5.

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 17678 of 2024** 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.)