

04
02.01.2024
d.p.

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A 17542 of 2023

**Jharna Rath
-versus
The State of West Bengal & Ors.**

**Mr. Sudeep Sanyal,
Mr. Snehasis Jana,
Ms. Tutun Das,
Mr. Chandrachur Lahiri.
...For the Petitioner.**

**Mr. Koushik Chatterjee,
Mr. Nilanjan Adhikari.
...For the Respondent
Nos. 2, 3 and 4.**

**Mr. Priyankar Saha,
Mr. Debangshu Dinda.
...For the State.**

In compliance of the direction passed by this Court a joint spot inspection was conducted in the presence of the parties.

Report of the joint spot inspection has been filed in Court. Let copy of the same be circulated amongst the parties.

It appears from the report that the unauthorized construction by encroaching the government land (PWD) has been detected.

The Board of Councilors of Contai Municipality has mentioned that the municipal authority is not the

custodian of the land and as such does not have any right to demolish the unauthorized construction.

The report of the Municipality mentions about a civil suit being Title Suit No. 1018 of 2018 which is pending consideration before the Learned Civil Judge (Senior Division), 1st Court, Contai.

As it appears from the report filed by the official respondents that the government land has been encroached upon by the private respondent by making unauthorized construction, accordingly, the official respondent i.e. PWD (Roads) is directed to take necessary steps to deal with such unauthorized construction in accordance with law.

Necessary steps shall be taken in the matter for removal of the unauthorized construction at the earliest, but positively within a period of four months from the date of communication of this order.

It is made clear that the order passed by the Learned Civil Court in respect of any structure/construction made unauthorizedly over government land will not stand in the way of the PWD (Roads) to take steps for removal of the same in accordance with law especially because any unauthorized construction cannot be permitted to stand by virtue of Court order.

As regards the allegation of the petitioner of raising unauthorized construction by the private respondents over her private land, the Municipality shall take necessary steps to deal with the same if it is detected that the construction is being made without

obtaining any sanction or made in deviation of the plan sanctioned by the Municipality.

The writ petition stands disposed of.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Amrita Sinha, J.)