

February 23, 2024
(18) ARDR

WPA 19204 of 2023

Sukhen Das & anr.
Vs.
The State of West Bengal & ors.

Adv. Dilip Kumar Sinha,
...for the petitioner.

Affidavit of service filed by the petitioners is taken on record.

None appears for the respondents despite service.

Mr. Ayan Banerjee, Advocate who usually appears for the State and is present in Court today, is requested to represent the State in this matter.

His appointment be regularised by the office of the learned Legal Remembrancer.

The petitioners are directed to serve copy of the writ petition along with annexures thereto upon Mr. Banerjee, Advocate in course of this day.

Heard learned counsels for the parties.

It is submitted on behalf of the petitioners that some portion of the petitioners' land was acquired by the respondents and the petitioners have been utilising the remaining portion commercially. Encroachment was made in front of the petitioners' land affecting the smooth running of the business of the petitioners and obstructing their egress and ingress for which the petitioners approached the respondents who removed such encroachment. The petitioners apprehend that further

encroachment may be made by outsiders in future for which he approached the authority requesting grant of short term lease in respect of the approach road adjoining their property to ensure their free egress and ingress. The request of the petitioners was turned down by the authority and intimated to the petitioners vide letter issued on 17th January, 2023. The petitioners submit that no reasoned order was passed by the authority in respect of their request upon affording an opportunity of hearing to them.

Learned counsel for the respondents submits that since the roadside land shall be required for development work of road in near future as reported by the Executive Engineer, Tamluk Highway Division, P.W. (Roads) Department, the said land cannot be allotted to the petitioner.

There is no reflection in the letter dated 17th January, 2023 that an opportunity of hearing was granted to the petitioner prior to rejection of his request.

In view of the above, the decision taken by the authority communicated to the petitioner vide letter dated 17th January, 2023 is set aside.

On prayer of the petitioner, liberty is granted to submit a fresh representation before the 2nd respondent renewing his prayer within one week from date.

The 2nd respondent is directed to consider and dispose of the representation within one month from the date of receipt thereof upon affording reasonable

opportunity of hearing to all concerned including the petitioner, in accordance with law.

It is made clear that this Court has not gone into the merits of the case and the respondent authorities shall be at liberty to deal with the representation submitted by the petitioner independently, in accordance with law.

With the aforesaid directions the writ petition is disposed of.

There shall however, be no order as to costs.

Since no affidavit is invited, the allegations contained in the petition are deemed not to be admitted.

Urgent certified website copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Suvra Ghosh, J.)