

WPA 19696 of 2023

Ismile Malida
Vs.
The State of W.B. & Ors.

Mr. Raj Kumar Sain ...for the petitioner.

Mr. Soumitra Bandyopadhyay
Mr. Priyabrata Batabyal ...for the State.

Mr. Sandipan Banerjee
Mr. Arijit Bhattacharya
Ms. P. Banerjee ...for respondent nos.7, 8 & 9.

Affidavits of service filed by the petitioner are taken on record.

Heard learned counsels for the parties.

The petitioner claims to be the recorded owner of the plot in question and complains that the private respondents have raised unauthorised construction by encroaching upon government land adjoining his property, thereby obstructing his egress and ingress.

The petitioner submitted a representation in this regard before the concerned authority on 6th July, 2023 which is yet to be considered. The petitioner prays for a direction upon the concerned authority to consider the representation at the earliest.

Learned counsel for the petitioner submits that previously a title suit was filed before the civil court by the predecessors-in-interest of the petitioner. The

predecessors also filed a writ petition before this Court seeking removal of unauthorised construction in front of their plot.

By an order passed on 18th September, 2019, in WP No.14253 (W) of 2019 a co-ordinate Bench of this Court held that since the petitioners therein approached the writ court during pendency of the title suit filed by them, they did not come before the Court with clean hands. The co-ordinate Bench dismissed the writ petition imposing cost of Rs.1,00,000/- upon the petitioners therein. The title suit was also dismissed by an order passed on 15th February, 2020.

In the earlier writ petition, the learned Court observed as follows:

“State authorities having found the plots concerned to be the property of the State and having invoked the Act of 1964, the authorities will proceed with the same, in accordance with law. The issue of illegal encroachment is kept open to be decided in such proceeding.”

Learned counsel for the petitioner submits that it was subsequently found that the land belongs to the West Bengal Irrigation and Waterways Department and not to the PWD Department.

Upon consideration of submission made on behalf of the parties, this Court is inclined to hold that since the representation submitted by the petitioner in this regard is pending consideration, the concerned authority, being the 3rd respondent herein be directed to consider and dispose

of the representation submitted by the petitioner dated 6th July, 2023 within three months from the date of communication of this order upon affording reasonable opportunity of hearing to all the interested persons including the petitioner and the private respondents, in accordance with law.

With the above observations and 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.)