

32
jdt.

05.04.2024
jb.

W.P.A. 20028 of 2023
(Aziz Rahaman Molla vs. State of West Bengal & Ors.)

Mr. Pankaj Halder
Mr. Neelabha Bera
.... For the Petitioner
Mr. Chandi Charan De
Ms. Reshma Chatterjee
.... For the State
Mr. Sanjay Kr. Laskar
Ms. Sayani Sarkar
.... For the Respondent No. 8

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

None appears for the respondent no. 7 despite service.

Heard learned counsels for the parties.

The petitioner claims to be the recorded owner of the plot in question and submits that the private respondents have raised unauthorised construction by encroaching upon a portion of PWD land adjoining his property, thereby obstructing his egress and ingress. Learned counsel for the petitioner submits that pursuant to a representation submitted by him before the concerned authority in this regard on 4th August, 2023, the Assistant Engineer, PWD being the 4th respondent herein has requested the Block Land and Land Reforms Officer, the 5th respondent herein to cause demarcation of the plot in dispute in order to

ascertain the alleged encroachment therein, such request being made during the pendency of the writ petition.

Learned counsel seeks a direction upon the Assistant Engineer to take necessary steps in accordance with law.

Learned counsel for the State respondents submits that the 4th respondent be directed to consider the representation in accordance with law.

Learned counsel for the 8th respondent submits that the petitioner has entered into an agreement for sale of 1 decimal of his land to this private respondent for which the private respondent has paid Rs.60,000/- to the petitioner. Such submission is denied and disputed by the petitioner.

Be that as it may, this Court is of the view that since the representation submitted by the petitioner before the concerned authority is pending and the 4th respondent has requested the 5th respondent for demarcation of the plot in dispute, the 5th respondent be directed to cause such demarcation upon service of notice to all concerned including the petitioner and the private respondents and submit a report to that effect before the 4th respondent within one month from date. Upon receipt of the report, in the event it is found that PWD land or any portion thereof has been encroached upon by the private respondents, the 4th respondent be

directed to initiate proceeding under Section 10 of the West Bengal National Highways Act, 1964 and take the proceeding to its logical conclusion within two months from the date of receipt of demarcation report upon affording reasonable opportunity of hearing to all the interested persons including the petitioner and the private respondents, in accordance with law.

The parties shall be at liberty to produce all relevant documents in support of their respective claims before the authority at the time of hearing.

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.)