

Court No. 2
20.8.2024
(Item No. 32)
(AB)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side
W.P.A. 20674 of 2024

Rita Goswami
VS
The State of West Bengal & Ors.

Mr. Ujjal Ray
Sk. Abdur Rahim
.... For the petitioner
Mr. Supratim Dhar
Mr. Tarak Karan
.... For the State

Upon urgency being pleaded on behalf of the petitioner and in view of the determination being assigned before this Court, this writ petition has been taken up for consideration by publishing the same in today's cause list.

Affidavit of service filed in Court today, is taken on record. The affidavit of service shows that, the writ petition has already been served upon the concerned Municipality on August 14, 2024.

On the prayer of Mr. Ujjal Ray, learned counsel appearing for the petitioner, leave is granted to the petitioner to file a supplementary affidavit to disclose the representation dated **August 14, 2024** submitted by the petitioner before the respondent Municipality including the respondent No. 5, such leave is granted. The supplementary affidavit affirmed on August 20, 2024 is taken on record.

Mr. Tarak Karan, learned State advocate appears for respondent Nos. 1 and 2.

Rest of the respondents are not represented.

The petitioner claims that, the concerned Municipality on the plea of alleged encroachment of a public street proceeded against the petitioner to demolish the structure built up by the petitioner on the subject piece of land. Learned counsel appearing for the petitioner submits that, this piece of land is not a part of any public street. Accordingly, the petitioner submitted the said representation dated **August 16, 2024** before the respondent No. 5 and the same is still pending.

In view of the above, to sub-serve justice, the appropriate jurisdictional authority of the concerned Municipality is directed to hold a hearing on **September 2 and September 3, 2024 at 12.00 noon** at its office and then after hearing the petitioner shall dispose of the said representation of the petitioner dated **August 16, 2024** by passing a reasoned order in accordance with law.

The entire exercise as directed above, shall be carried out and completed and the reasoned order shall be passed by the such appropriate jurisdictional authority positively on or before **September 10, 2024**. The petitioner then shall collect the reasoned order from the office of such appropriate jurisdictional authority positively by **September 11, 2024**.

It is needless to mention that, such appropriate jurisdictional authority in presence of the

petitioner shall also hold a physical inspection of the alleged encroachment on **August 27, 2024 at 12.00 noon.**

It is made clear that, this Court has not gone into the merits of the claim of the petitioner and the petitioner shall be at liberty to urge whatever points she wishes to urge by relying upon whatever records and documents she wishes to rely upon before the appropriate jurisdictional authority but the same shall not travel beyond the scope of the said representation dated **August 16, 2024.** In the event, any assistance of the land record is required by such appropriate jurisdictional authority, such appropriate jurisdictional authority may seek assistance of the land records to be produced by the jurisdictional Block Land and Land Reforms Officer (B.L.& L.R.O.).

In the event, the reasoned order confirms the encroachment on the public street, such appropriate jurisdictional authority shall communicate the same to the appropriate authority and such appropriate authority and/or respondent No. 4 shall take steps to give an immediate effect to the said reasoned order in accordance with law but positively within a period of **four weeks** from the date of the said reasoned order to be communicate to such authority.

It is made clear that, this order shall not create any right or equity in favour of the petitioner, if the

petitioner is not eligible to receive her claim strictly in accordance with law.

Since affidavits are not called for, the allegations made in this writ petition are deemed not to have been admitted by the respondents.

The petitioner shall serve a copy of this order upon the jurisdictional B.L.&L.R.O. forthwith.

Until the reasoned order is passed by the appropriate jurisdictional authority, the Municipality shall not take any step or further steps for removal of the alleged encroachment.

It is further clarified that, if the reasoned order confirms the encroachment, there shall be no fetter upon the concerned Municipality to take steps in accordance with law for removal or demolition of the same.

With the above observations and directions, this writ petition **W.P.A. 20674 of 2024** stands disposed of, without any order as to costs.

In view of the urgency involved in the matter the respective learned advocate on records for the respective parties shall be at liberty to communicate gist of this order to the parties to the writ petition.

Photostat certified copy of this order, if applied for, be furnished expeditiously.

(Aniruddha Roy, J.)