

01.08.2024
Item No. 7
Crt.No.02
b.r.

WPA 21755 of 2022

Kanailal Jana
-vs-
The State of West Bengal & Ors.

Mr. Salil Kumar Maiti
Mr. Pinaki Saha
..... for the petitioners.

Mr. Ashim Kumar Ganguly, Ld. AGP
Mr. Subrata Das Gupta
.... For the State.

Affidavit of service filed in Court today, is taken on record.

Mr. Salil Kumar Maiti, learned advocate, appears for the petitioner.

Mr. Ashim Kumar Ganguly, learned Additional Government Pleader, appears for the respondent nos. 1 to 9.

The private respondent no.10 is not represented, despite notice. The law presumes he does not intend to defend this writ petition.

The petitioner submits that a piece of land was granted on lease by **Public Works Department (PWD)**. A portion of such lease-hold land alleged to have been encroached and an unauthorized construction has been caused at the behest of the private respondent. The registered lease is granted in favour of the petitioner is

dated **April 7, 2016 annexure p-3 at page-31** to the writ petition.

The petitioner submitted representation dated **July 11, 2022 annexure p-7 at page-47** to the writ petition before the PWD authorities but the same has not yet been considered.

Learned Additional Government Pleader referring to a document dated **July 16, 2019 annexure p-5 at page-45** to the writ petition submits that the subject piece of land was acquired in connection with **LA Case No. 187 of 1973-74**.

After hearing the parties and upon perusal of the materials on record, a significant fact appears that if the land had been acquired in **1973-74** then how could the lease deed be executed in favour of the petitioner in 2016.

Learned counsel for the petitioner referring to **Clause- C** of the lease deed dated **April 7, 2016 at page 32** to the writ petition submits that the subject land was let out to the petitioner only for the purpose of egress and ingress to his **Rayati land**.

Be that as it may, to sub-serve justice, the **respondent no.5** is directed upon issuing a prior notice to the petitioner and the private respondent no.10 to cause a physical inspection of the alleged unauthorized construction and encroachment on the alleged public

land and after giving them an opportunity of hearing to decide the said representation dated **July 11, 2022** as referred to above by a reasoned order in accordance with law.

The entire exercise as directed above shall be carried out and completed by the **respondent no.5** positively within a period of **six weeks** from the date of communication of this order and the reasoned order shall be communicated to the petitioner and the private respondents positively within a further period of two weeks from the date of the said reasoned order to be passed.

It is made clear that this Court has not gone into the merits of the rival contentions as recorded above. The petitioner and the private respondents shall be at liberty to urge whatever points they wish to urge by relying upon whatever documents they wish to rely upon before the **respondent no.5** but the same shall not travel beyond the scope of the said representation dated **July 11, 2022**.

In course of the hearing, the respondent no.5 if thinks fit, it may call upon the necessary land records from the office of the **Special Land Acquisition Officer, Tamluk, Purba Medinipur** and in that event all cooperation and assistance shall be provided by the

office of the said Special Land Acquisition Officer to the respondent no.5.

In the event, the reasoned order confirms the alleged unauthorised construction and encroachment on the public land, the **respondent no.6** shall take steps to give an immediate effect to the said reasoned order in terms of **Section 10** of the **West Bengal Highways Act, 1964** positively within a period of **eight weeks** from the date of the said reasoned order to be communicated to the **respondent no.6**.

In the event, any assistance is sought for by the **respondent no.6** for police help, the **respondent no.8** shall render all possible assistance to the **respondent no.6** 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.

With the above observations and directions, this writ petition, **WPA 21755 of 2022** stands **disposed of**, without any order as to costs.

(Aniruddha Roy, J.)