

26
26.09.2024
BP
Ct. No. 2

W.P.A 22331 of 2024

**Negar Bibi
-versus
State of West Bengal & Ors.**

**Md. Yusuf Ali
...for the Petitioner**

**Mr. Chandi Charan De, Ld. Additional
Government Pleader
Ms. Reshma Chatterjee
..for the State**

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

Md. Yusuf Ali, learned counsel appears for the petitioner.

Mr. Chandi Charan De, learned Additional Government Pleader appears for the respondent nos. 1 to 7.

None appears for the private respondent no. 8, despite notice.

The petitioner complains of an alleged unauthorised and illegal construction and encroachment upon the PWD land at the behest of the private respondent.

The petitioner submitted its representation dated July 26, 2024 Annexure P-5 at page 28 to the writ petition.

After considering the submissions made on behalf of the parties, the respondent no.6 upon notice to the petitioner and the private respondent shall cause a physical inspection of the alleged unauthorised and illegal structure and the encroachment upon the PWD land and shall prepare a report and submit a copy of the report to the petitioner and the private respondent.

This exercise shall be carried out by the respondent no.6 positively within a period of three weeks from the date of communication of this order. The respondent no.6 then shall submit a report before the respondent no.5 within a period of one week from the date of preparation of the said report.

The respondent no.5 then upon issuing a prior notice of hearing of at least seven days to the petitioner and the private respondent no.8 and after granting them an opportunity of hearing shall decide the said representation dated July 26, 2024, as referred to above by passing a reasoned order in accordance with law.

The entire exercise shall be carried out by the respondent no.5 positively within a period of six weeks

from the date of receiving the report from the respondent no.6.

The reasoned order shall be communicated to the petitioner and the private respondent positively within a period of one week 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 claim and rival claims of the petitioner and the private respondent and they shall be at liberty to urge whatever points they wish to urge by relying upon whatever records and documents they wish to rely upon before the respondent no.5.

In the event the reasoned order confirms the unauthorised and illegal structure and the encroachment on the PWD land then the respondent no.5 positively within a period of two weeks from the date of the said reasoned order shall transmit the same to the respondent no.3 who shall take all necessary and consequential 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 receipt of such reasoned order from the respondent no.5.

It is made clear that this order shall not create any right or equity in favour of the petitioner or in favour of the private respondent, if they do not succeed to their

respective claims before the respondent no.5 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.

With the above observations and directions, this writ petition, **WPA 22331 of 2024** stands disposed of, without any order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties expeditiously, on compliance of usual legal formalities.

(Aniruddha Roy, J.)