

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

22 04.12.2024
Sc Ct. no.2

WPA 22000 OF 2023

Mrinal Kanti Halder
Vs.
The State of West Bengal & Ors.

Mr. Lakshminath Bhattacharya
.... For the Petitioner
Mr. Soumitra Bandyopadhyay
Mr. Srinath Singha Roy.
.... For the Respondent
Nos. 1 to 11
Ms. Soma Kar Ghosh
Ms. Suparna Paul.
.... For the Respondent
Nos.12 to 14
Mr. Soumen Gayen
Mr. Raj Kumar Sain.
.... For the Respondent
No.15

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

Mr. Lakshminath Bhattacharya, learned counsel
appears for the petitioner.

Mr. Soumitra Bandyopadhyay, learned senior State
counsel appears for the respondent nos.1 to 11.

Ms. Soma Kar Ghosh, learned counsel appears for
the respondent nos.12 to 14.

Mr. Raj Kumar Sain, learned counsel led by Mr.
Soumen Gayan, learned counsel appears for the
respondent no.15.

The petitioner complains of an alleged encroachment and unauthorized construction on the PWD land at the behest of the private respondents. The petitioner submitted a representation dated ***Annexure P-2 at page-29*** to the writ petition, but the same has not yet been dealt with.

Both the learned counsel appearing for the private respondents deny and dispute the allegation of the petitioner. They submit that, they have not encroached any portion of the said PWD Land and they have made construction on their own raiyati land.

Learned counsel for the private respondent nos. 12 to 14 submits that they are in possession of ***Plot No.717***.

In view of the above, the jurisdictional Block Land and Land Reforms Officer (B.L.&L.R.O) upon prior notice to the petitioner and the private respondents shall cause a physical inspection of the alleged encroachment and construction and shall submit his report before the petitioner, private respondents and the jurisdictional Assistant Engineer, PWD.

This exercise shall be carried out and completed by the jurisdictional B.L.&L.R.O. positively within a period of ***four weeks*** from the date of communication of this order.

In the event such report confirms the alleged encroachment and construction on the PWD land then

the jurisdictional Assistant Engineer, PWD after issuing a prior hearing notice of at least **seven days** to the petitioner and the private respondents and after giving them an opportunity of hearing shall decide the said representation **Annexure-P2 at page 29** to the writ petition as referred to above by passing a reasoned order in accordance with law.

The entire exercise shall be carried out and completed by the jurisdictional Assistant Engineer, PWD positively within a period of **six weeks** from the date of receiving report from the jurisdictional B.L.& L.R.O. The reasoned order shall be communicated to the petitioner and the private respondents positively within a 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 case of the petitioner or the private respondents 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 jurisdictional Assistant Engineer, PWD.

In the event, the reasoned order confirms the alleged unauthorized construction and encroachment, the jurisdictional Assistant Engineer, PWD shall communicate the order to the jurisdictional Sub-Divisional Officer positively within a period of **three weeks** from the date of the said reasoned order to be

passed, who shall take all necessary and consequential steps to give an immediate effect to the said reasoned order in accordance with law positively within ***four weeks*** from the date of receiving the reasoned order from the Assistant Engineer, PWD.

This order shall not create any right or equity in favour of the petitioner and in favour of the private respondents, if they do not succeed to their respective claims before the jurisdictional Assistant Engineer, PWD 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 22000 of 2023*** stands ***disposed of***, without any order as to costs.

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

(Aniruddha Roy, J.)