

Sl.11
11.09.2024
Suman
Ct.No.15

WPA 22827 of 2024

Arjun Mondal & Ors.
Vs.
The State of West Bengal and Ors.

Mr. Pinaki Dhole
Mr. Prosenjit Mukherjee
Mr. Saptarshi Chakraborty
Mr. Rabindra Kumar Pathak
...for the petitioners

Mr. Dipanjan Datta
Ms. Sukanya Datta
..for the State

Mr. Debrup Bhattacharjee
Mr. Aniruddha Ganguly
..for respondent no.8

Liberty is granted to the learned advocate representing the petitioner to amend the classification of the writ petition.

The report filed by the State is to be retained with the records.

Respondent No. 8 filed WPA 23895 of 2023, alleging unauthorized construction of a shop room by the petitioner on P.W.D. land. This writ petition was disposed of by a Co-ordinate Bench of this Court on May 15, 2024, with the following order:

“Accordingly, the writ petition is disposed of directing the concerned authority to take the proceedings under Section 10 of the said Act to its logical

conclusion within two months from the date of communication of this order after affording reasonable opportunity of hearing to all the interest persons including the petitioner and the private respondents in accordance with law.”

In compliance with this order, the Executive Engineer, P.W.D., Barasat Division, issued an order on July 8, 2024, directing the petitioner to remove the alleged unauthorized construction. The petitioner has challenged this order by filing the present writ petition.

The learned advocate for Respondent No. 8 argues that the petitioner, by filing another writ petition, admitted to the encroachment.

The learned advocate for the State contends that the petitioner was given a proper opportunity to be heard.

Nevertheless, Section 10 of the West Bengal Highways Act, 1964, authorizes the “Executive Magistrate” to issue an order for the removal of encroachments. It is an admitted position that this authority was exercised by the Executive Engineer, P.W.D., Barasat Division. Therefore, the order dated July 8, 2024, is set aside.

The matter shall be reconsidered afresh by the relevant Executive Magistrate in accordance with Section 10(2) of the West Bengal Highways Act, 1964. This process is to be completed within two months from the date of communication of this order. The

Executive Magistrate is to ensure that all concerned parties are heard in reaching a decision.

Accordingly, **WPA 22827 of 2024** is disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied to the learned advocates for the parties on usual undertakings.

(Kausik Chanda, J.)