

01.10. 2024
SL No.24
Court No.2
sg

WPA 23260 of 2024

**Golam Salim
Vs.
State of West Bengal & Ors.**

Mr. Salauddin Ahamed
Mr. Sandipan Maity
...for the petitioner.

Mr. Ayan Banerjee
Mr. Amrita Lal Chatterjee
...for the State.

Mr. Rabindra Nath Bag
Ms. Sharmila Datta
Mr. Tridip Mishra
...for the respondents no. 10 to 18.

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

Mr. Salauddin Ahamed, learned Counsel
appears for the petitioner.

Mr. R. N. Bag, learned Counsel appears
through virtual mode on behalf of the private
respondents no. 10 to 18.

Mr. Amrita Lal Chatterjee, learned Counsel
led by Mr. Ayan Banerjee appears for the State
Counsel 1 to 9.

The petitioner complains of alleged
unauthorized construction and encroachment on
PWD land at the behest of the private respondents.
The petitioners submitted representation dated July
16, 2024 annexure P-2 at page 19 to the writ

petition but the same has not yet been disposed of.

Learned Counsel appearing for the private respondent nos. 10 to 18 submits that there is no encroachment. They are carrying out their respective livelihood from their respective temporary structures as alleged by the petitioner. There is sufficient space for ingress and egress for the petitioner.

Learned State Counsel submits that the land upon which encroachment has been alleged is not the land of PWD but the land belongs to the State. The learned State Counsel places a written instruction dated September 20, 2024, the same is taken on record.

After considering the rival contentions of the parties and upon perusal of the materials-on-record, the respondent no.7 is directed upon issuing prior notice to the petitioner and the private respondents to cause a physical inspection of the alleged encroachment, if any, and to ascertain on whose land the encroachment, alleged if any and he shall prepare a report. Copies of the report shall be furnished to the petitioner and private respondents.

Respondent no.7 then shall communicate its report to the respondent no.5.

This exercise shall be carried out and completed by the respondent no.7 positively within a

period of 4 weeks from the date of communication of this order.

The respondent no.5 after receiving such inspection report upon giving prior hearing notice of at least 7 days to the petitioner, private respondents no. 10 to 18 and the respondent no.7 and after granting them an opportunity of hearing shall dispose of said representation dated July 16,2024 as referred to above, by passing a reasoned order in accordance with law.

The entire exercise shall be carried out and completed by the respondent no.5 positively within a period of 6 weeks from the date of communication of the reasoned order to be passed. The reasoned order shall be communicated to the petitioner and the private respondents within two weeks from the date of the reasoned order to be passed.

It is made clear that this Court has not gone into the merit of the rival contentions of the petitioner, private respondents and the State respondents and they shall be at liberty to urge their points on the basis of the land records available before the respondent no.5 by relying upon whatever records and documents they wish to rely upon, but the same shall not travel beyond the scope of the said representation dated July 16, 2024.

In the event the reasoned order confirms the encroachment either on the PWD land or State land

respective appropriate jurisdictional authority shall take all necessary and consequential steps to give an immediate effect thereto in accordance with law but positively within a period of 6 weeks from the date of the said reasoned order to be passed.

It is made clear that this order shall not create any right or any equity in favour of the petitioner or the private respondents or the State, if they do not succeed to their respective contentions, 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 23260 of 2024** stands disposed of without any order as to costs.

(Aniruddha Roy, J.)