

19.09.2024
Sl. No. 20
g.b.
Court No.02

W.P.A. 22656 of 2023

Tarachad Molla @ Tarachand Molla
-Vs-
The State of W. B. & Ors.

Mr. Kuntal Banerjee
.....For the Petitioner
Mr. Ashim Kr. Ganguly, AGP
Mr. Tarak Karan
.....For the State

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

Mr. Kuntal Banerjee, learned advocate appears for the petitioner.

Mr. Ashim Kr. Ganguly, learned Additional Government Pleader appears for the respondent nos. 1 to 8.

The private respondent no.9 is not represented, despite notice.

The petitioner complains of an alleged unauthorized and illegal construction at the behest of the private respondent no.9. The petitioner has submitted a representation dated August 21, 2023, Annexure 'P-2' at page 24 to the

writ petition, the same has not yet been considered.

In view of the above, the respondent nos. 5, 6 and 7 upon prior notice to the petitioner and the private respondent no.9 shall within **two weeks** from the communication of this order, cause a physical inspection of the alleged unauthorized and illegal structure. Inspection report shall immediately be submitted before the respondent no.3 positively within a period of **one week** from the date of such physical inspection.

The respondent no.3 then upon issuing a prior hearing notice of at least seven days to the petitioner and the private respondent no.9 shall decide the said representation dated August 21, 2023, as referred to above, by passing a reasoned order in accordance with law.

The respondent no.3 shall carry out and complete the entire exercise positively on or before **November 7, 2024** and shall communicate the reasoned order to the petitioner and the private respondent no.9 positively on or before **November 14, 2024**.

It is made clear that the court has not gone into the merits of the rival claims of the petitioner or the private respondent no.9 and they shall be entitled to raise whatever issues they want to raise by relying upon whatever records and documents they want to rely upon before the respondent no.3.

In the event, the reasoned order confirms the illegal and unauthorized construction, the respondent no.3 shall take all necessary and consequential steps to give an immediate effect thereto positively within a further period of **four weeks** from the date of reasoned order to be passed by the respondent no.3.

In the event, any assistance is sought for from the respondent no.8, the same shall be provided to the respondent no.3 to give effect to the said reasoned order.

It is made clear that the order shall not create any right or equity in favour of the petitioner or in favour of the private respondent no.9, if they do not succeed to their respective

claims before the respondent no.3 strictly in accordance with law.

Since affidavits are not called for, the allegations made in the writ petition are deemed not to have been admitted by the respondents.

With the observations and directions, the writ petition **WPA 22656 of 2023** stands disposed of, without any order as to costs.

Urgent Xerox certified copy of this order, if applied for, be supplied to the parties on urgent basis after compliance of all necessary formalities.

(Aniruddha Roy, J.)