

Court No. 2
03.10.2024
(Item No. 27)
(AB)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. 23711 of 2024

Marjan Mandal
VS
The State of West Bengal & Ors.

Mr. Hamidur Rahaman
.... For the petitioner
Mr. Soumitra Bandyopadhyay
Mr. Srikanta Paul
.... For the State respondents
Mr. Nurnobi Seikh
.... For private respondent No. 8

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

Mr. Hamidur Rahaman, learned advocate
appears for the petitioner.

Mr. Soumitra Bandyopadhyay, learned State
counsel appears for respondent Nos. 1 to 7.

Mr. Nurnobi Sk., learned advocate appears for
private respondent No. 8.

The petitioner complains of an alleged
construction and encroachment on a portion of PWD
land at the behest of the private respondent. The
petitioner submitted a representation dated **August**
16, 2024, annexure P-3 at **page 24** to the writ
petition, the same has not been considered.

Learned counsel for the private respondent
submits that, he has been carrying out **one small**
shop room from the land complained of for about last
40 years whereas the petitioner has been carrying out

three shops also upon encroachment of the same stretch of P.W.D. land.

In view of the above, the respondent No. 6 upon notice to both the petitioner and the private respondent No. 8 shall cause a physical inspection of the alleged encroachments, if caused by both petitioner and the private respondent on the alleged P.W.D. land and shall prepare a report. The report then shall be served to the petitioner, the private respondent No. 8 and the respondent No. 5.

This exercise shall be carried out and completed by the respondent No. 6 positively within a period of **six weeks** from the date of communication of this order.

The respondent No. 5 upon issuing a prior hearing notice of at least seven days to the petitioner and the private respondent shall consider the said representation dated **August 16, 2024** as referred to above and also the counter allegation of the private respondent whether the petitioner has also encroached any portion of the P.W.D. land after granting them an opportunity of hearing and shall pass a reasoned order in accordance with law.

It is made clear that, this Court has not gone into the merits of the allegation and counter allegation 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.

The entire exercise shall be carried out and completed by the respondent No. 5 positively within a period of **six weeks** from the date of receiving report from the respondent No. 6 and 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.

In the event, the reasoned order confirms encroachment either by the petitioner or by the private respondent or by both the respondent No. 5 shall send the reasoned order to the respondent No. 3 positively within a period of **two 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 a period of **three weeks** from the date of receiving the said reasoned order.

It is made clear that, this order shall not create any right or equity in favour of the petitioner or the private respondent if they do not succeed to their respective allegations raised against each other before the respondent No. 5.

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 **W.P.A. 23711 of 2024** stands **disposed of**, without any order as to costs.

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

(Aniruddha Roy, J.)