

17 01.8.2024
Sc Ct. no.2

WPA 22853 OF 2023

Roumya Sahoo

Vs.

The State of West Bengal & Ors.

Mr. Salil Kumar Maiti
Mr. Dolon Samanta.

... For the Petitioner

Mr. Nirmalendu Bera
Ms. Tanima Nandy.

.... For the Respondent
Nos. 7 to 11

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

Mr. Salil Kumar Maiti, learned advocate appears for the petitioner.

Mr. Nirmalendu Bera, learned advocate appears for the respondent nos. 7 to 11.

None appears for the State respondents, despite notice.

The private respondent no. 12 is not represented, despite notice. The law presumes that, she does not intend to defend this writ petition

The petitioner complains of an alleged illegal and unauthorized construction and encroachment on a piece of land at the behest of the private respondents. The petitioner submitted a representation dated **February 16, 2023, Annexure-P3 at page 36** to the writ petition, *inter alia*, before the respondent no.3 but the same has not yet been considered.

Learned counsel appearing for the private respondents submits that, they have constructed their dwelling house and the structure is not permanent. They have been dwelling there since long. The photographs placed before this Court by the private respondents are taken on record.

After considering the rival contentions of the parties and upon perusal of the materials on record, the respondent no.3 is directed upon issuing a prior notice to the petitioner and the private respondents to cause a physical inspection of the alleged encroachment and unauthorized structure and then after giving them an opportunity of hearing shall dispose of the said representation of the petitioner dated **February 16, 2023** as referred to above by passing a reasoned order in accordance with law.

The entire exercise as directed above, shall be carried out and completed by the respondent no.3 positively within a period of **six weeks** from the date of communication of this order. The reasoned order shall be communicated to the petitioner and the private respondents positively within a **further** 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 rival claims of the parties. The petitioner and the private respondents 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.3 but the same shall not travel beyond the scope of the representation dated **February 16, 2023**.

In the event, the reasoned order confirms the alleged encroachment and illegal construction then the respondent no.3 shall take all necessary and consequential steps to give an immediate effect to the said reasoned order in accordance with law but positively within a period of **six weeks** from the date of the reasoned order to be passed.

It is made clear that, this order shall not create any right or equity in favour of the petitioner and the private respondents 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, **WPA 22853 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.)