

Court No. 2
03.10.2024
(Item No. 28)
(AB)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. 23752 of 2024

Salim Molla & Ors.
VS
The State of West Bengal & Ors.
Mr. Lakshmi Nath Bhattacharya
.... For the petitioner
Mr. Soumitra Bandyopadhyay
Mr. Srinath Singha Roy
.... For the State respondents
Mr. Shahan Shah
Mr. Soumen Barman
Mr. Umenun Khan
.. For private respondent Nos. 12 to 22

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

Mr. Lakshmi Nath Bhattacharya, learned advocate appears for the petitioners.

Mr. Srinath Singha Roy, learned advocate led by Mr. Soumitra Bandyopadhyay, learned State counsel appears for respondent Nos. 1 to 11.

Mr. Shahan Shah, learned advocate appears for private respondent Nos. 12 to 22.

The petitioners complain of an alleged unauthorized construction and encroachment on a portion of PWD land at the behest of the private respondents. The petitioners submitted a representation dated **August 27, 2024, annexure P-3** at **page 33** to the writ petition, the same has not been disposed of.

The respondent No. 11 upon notice to the petitioner and the private respondents shall cause a physical inspection of the alleged encroachment on the P.W.D. land and shall prepare a report. Copy of the report shall be submitted to the petitioners, private respondents and respondent No. 8.

This exercise shall be carried out by the respondent No. 11 positively within a period of **six weeks** from the date of communication of this order.

The respondent No. 8 after receiving the said report from the respondent No. 11 upon issuing a prior hearing notice of at least seven days to the petitioners and the private respondents and after giving them a opportunity of hearing shall dispose of the said representation dated August 27, 2024 by passing a reasoned order in accordance with law.

This exercise shall be carried out and completed by the respondent No. 8 positively within a period of **five weeks** from the date of receiving the said report from the respondent No. 11 and the reasoned order shall be furnished to the petitioners and the private respondents positively within a further period of **one week** 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 contentions of the

petitioners and the private respondents and they shall be free to urge whatever points they shall be urged by relying upon whatever records and documents they wish to rely upon before respondent No. 8 but the same shall not travel beyond the scope of the said representation dated **August 27, 2024**, as referred to above.

In the event, the reasoned order confirms the encroachment on P.W.D. land then the respondent No. 8 shall forthwith send the reasoned order before the respondent No. 4 positively within a period of **two weeks** from the date of the said reasoned order to be passed.

The respondent No. 4 then 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 **four weeks** from the date of the said reasoned order from the respondent No. 8.

This order shall not create any right or equity either in favour of the petitioners or in favour of the private respondents, if they do not succeed to their claims before the respondent No. 8 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 **W.P.A. 23752 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.)