

30.09.2024
Ct. No. 2
Sl. No. 15
tbsr

WPA 23696 of 2024

Salil Chandra Mondal & Anr.
Vs.
State of West Bengal & Ors.

Mr. Sankar Prashad Dalapati
Mr. Safik Dewan
Mr. Tamal Taru Panda
Mr. Ashum Dipta Santra
Mr. Sourav Mondal
....for the petitioners

Mr. Rajarshi Basu
Mr. Ananda Dulal Sarkar
....for the State

Mr. Biswajit Sau
....for the respondent no. 8

Two affidavits of service, filed in court today, are taken on record.

Mr. Sankar Prasad Dalapati, learned counsel appearing for the petitioners submits that no coercive step to be taken in terms of the impugned order dated **July 10, 2024** passed by the respondent no. 2 at **page 80** to the writ petition. He further submits that the subsequent notice for demolition of encroachment against his clients' **plot no. 4562** has been issued on **September 13, 2024, Annexure p-6 at page 82** to the writ petition.

From the notice, it appears that the date was fixed for demolition on September 19, 2024.

Mr. Rajarshi Basu, learned State counsel appearing for the respondent nos. 1 to 6 submits that no step was taken in terms of the said notice dated September 13, 2024. Hence, this notice dated September 13, 2024, Annexure P-6 at page 82 to the writ petition stands abandoned.

Mr. Dalapati then submits that the issue had also travelled in a previous writ petition, **WPA 15347 of 2023** when a Co-ordinate Bench by its order dated **December 4, 2023, Annexure P-3 at page 55** to the writ petition, disposed of the writ petition with the following observations :

“As it appears that the land in question is a Government land and the same is admitted by the Block Land and Land Reforms Officer, accordingly, prompt necessary steps are to be taken for removal of the unauthorized encroachers in accordance with law. The Government ought to protect its own land by removing the unauthorized encroachers.

In view of the above, the instant writ petition is disposed of by directing the District Magistrate, South 24 Parganas to take steps for removal of the unauthorized encroachers from LR Plot No. 4562 corresponding to RS Plot No. 4319/4404 classified as ‘Bandh’ and recorded in LR Khatina No. 1. Steps shall be taken in the matter at the earlier but positively within a

period of twelve weeks from the date of the communicate of this order.

The Superintendent of Police, Diamond Harbour Police District, is directed to render all necessary help and assistance to the District Magistrate, South 24 Parganas at the time of removal of the unauthorized encroachers.”

Following the said direction, the respondent no. 2 issued a notice and held a hearing where the petitioners participated and submitted its objection dated **August 19, 2024 at page 59** to the writ petition.

Thereafter, the impugned order was passed on July 10, 2024. Being aggrieved by the said impugned order the petitioners have preferred a statutory appeal **under Section 7 of the West Bengal Public Land (Eviction of Unauthorized Occupants) Act, 1962** and the same is pending before the appellate authority.

Mr. Dalapati prays that till the challenge is decided by the appellate authority, no further step shall be taken on the issue for removal of encroachment in terms of the said impugned order dated July 10, 2024.

Mr. Rajarshi Basu, *per contra*, appearing for the State submits that so long the observations made by

the Co-ordinate Bench on December 4, 2023, as quoted above, remains there cannot be any contrary decision thereto even by the appellate authority.

Mr. Biswajit Sau, learned counsel appears for the respondent no. 8.

After considering the submissions made on behalf of the parties and upon perusal of the materials on record, it appears to this Court that, the observations and directions of the Co-ordinate Bench dated December 4, 2023, as quoted above, is still in force. Though the petitioners were not party to that writ petition but to protect the land being **plot no. 4562**, as claimed by the petitioners now, they have not taken any steps to seek any clarification from the Co-ordinate Bench or to prefer leave to appeal therefrom. This, the decision of the Co-ordinate Bench has reached its finality and the same is holding the field.

In any event, when this statutory appeal has been preferred by the petitioners before the jurisdictional appellate authority, the same has to be decided in accordance with law.

Accordingly, the jurisdictional statutory appellate authority under the said 1962 Act shall decide the appeal in accordance with law positively by **October 30, 2024.**

This order shall not create any right or equity in favour of the petitioners.

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 23696 of 2024** stands **disposed of**, without any order as to costs.

Urgent certified photo copy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Aniruddha Roy, J.)