

Court No. 2
07.10.2024
(Item No. 16)
(AB)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side
W.P.A. 24422 of 2024

Akher Ali Molla
VS
The State of West Bengal & Ors.

Mr. Omar Faruk Gazi
Ms. Bidisha Das
Ms. Susmita Das
.... For the petitioner

Mr. Soumabha Ghose (virtual mode)
Mr. Saaquib Siddiqui
Mr. Samriddha Sen
.... For the respondent No. 5/WBHIDCO
Mr. Ayan Banerjee
Mr. Amrit Lal Chatterjee
.... For the State

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

Mr. Omar Faruk Gazi, learned advocate
appears for the petitioner.

Mr. Soumabha Ghosh learned counsel
(appears through virtual mode) with Mr. Samriddha
Sen, learned counsel appear for respondent No. 5.

Mr. Amrit Lal Chatterjee, learned counsel led
by Mr. Ayan Banerjee, learned State counsel appears
for respondent Nos. 1 to 4.

Showing the record of rights annexed to the
writ petition, learned counsel for the petitioner
submits that, the western portion of the petitioner's
land though have not been acquired by the State
respondent No. 5 has encroached it. The relevant
State authority claimed that the subject land is a
vested land.

Petitioner submits that there is no demarcation of the alleged vested land and the record of rights shows the names of the petitioner and their predecessors in interest, thus, the land cannot be said to be vested. The petitioner submitted a representation dated **December 8, 2023, annexure P-3** at **page 33** to the writ petition, the same has not yet been considered.

In view of the above, the respondent No. 3 upon issuing a prior notice to the petitioner and the appropriate authority of WBHIDCO/respondent No. 5 shall cause a physical inspection of the subject land and to identify the vested land in the light of the existing land records and to cause a proper demarcation of the vested land in accordance with law.

This exercise 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 respondent No. 3 then shall serve a copy of the reasoned order to the petitioner and the respondent No. 5 after demarcation of the vested land, if any, within a period of **one week** from the date of the said demarcation to be carried out, if any.

It is made clear that, this Court has not gone into the merits of the claim of the petitioner and the respondent No. 5 and they shall be at liberty to disclose whatever records and documents they wish to

disclose before the respondent No. 3 during such inspection.

It is made clear that, this order shall not create any right or equity in favour of the petitioner if ultimately it is found upon proper examination of the land records that the subject land stands vested with the State 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. 24422 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.)