

26.09.2024

Item No. 11

Crt.No.02

b.r.

WPA 24474 of 2023

Sk Sajahan

-vs-

The State of West Bengal & Ors.

Mr. Raj Kumar Sain

..... for the petitioner.

Mr. Supratim Dhar

Ms. Kalpita Paul

.... For the State.

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

Mr. Raj Kumar Sain, learned advocate, appears for the petitioner.

Mr. Supratim Dhar, learned State counsel appears for the respondent nos. 1 to 6.

None appears for the respondent no.7, despite service of notice.

The petitioner complains of an alleged unauthorised and illegal construction on the public land. The petitioner submitted its representation dated **July 17, 2023, annexure p-2 at page-21** to the writ petition.

After considering the submissions made on behalf of the parties and upon perusal of the materials on record, the **respondent no.5** upon issuing a prior notice to the petitioner and the private respondent shall cause a physical inspection of the alleged unauthorized

structure and construction and then shall submit a report to the petitioner and the private respondent and also before the **respondent no.3** positively within a period of **four weeks** from the date of communication of this order.

The **respondent no.3** then upon issuing a prior notice of hearing of at least **seven days** to the petitioner and the private respondent and after granting them an opportunity of hearing shall dispose of the said representation dated **July 17, 2023, annexure p-2 at page-21** to the writ petition by passing a reasoned order in accordance with law.

The **respondent no.3** shall carry out the entire exercise as directed herein and conclude the same positively within a period of **six weeks** from the date of receiving the report from the **respondent no.5**. The reasoned order then shall be communicated to the petitioner and the private respondent 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 claim and rival claims of the writ petitioner and the private respondent and they shall be at liberty to take whatever points they wish to take before the **respondent no.3** by relying upon and whatever records and documents they wish to rely upon

but the same shall not travel beyond the scope of the said representation dated **July 17, 2023**.

In the event the reasoned order confirms the unauthorized structure and encroachment on the public land, the **respondent no.3** shall take all necessary and consequential steps to give an immediate effect thereto positively within a period of **three weeks** from the date of the said reasoned order to be passed.

It is made clear that this order shall not create any right or equity in favour of the petitioner or in favour of the private respondent if they do not succeed to their respective claims before the **respondent no.3**, 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 24474 of 2023** stands **disposed of**, without any order as to costs.

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

(Aniruddha Roy, J.)