

March 6, 2024  
ARDR (700)

**WPA 25244 of 2023**

Biswajit Kundu  
Vs.  
The State of West Bengal & ors.

Adv. Mukteswari Maity,  
Adv. Prabir Rej,  
Adv. Pranab Kuamr Das,  
Adv. Nupur Chowdhuri,  
...for the petitioner.  
Adv. Jyoti Prakash Chakraborty,  
...for the private respondent no.6.  
Adv. Soumitra Bandyopadhyay,  
Adv. Priyabrata Batabyal,  
...for the State.

The petitioner claims to be the recorded owner of the plot in question and submits that the private respondent who was a tenant under the petitioner in respect of a shop room by virtue of an agreement which has expired, has raised unauthorised construction by encroaching upon a portion of the PWD land adjoining his property, thereby obstructing his egress and ingress. The petitioner submitted a representation in this regard before the concerned authority on 12<sup>th</sup> September, 2023 which is yet to be considered. The petitioner prays for a direction upon the authority to consider the representation at the earliest.

Learned counsel for the private respondent submits that no construction has been raised by the private respondent on any portion of the PWD land and the private respondent is still occupying the shop room which was rented out in his favour by the petitioner. The

petitioner seeks to evict the private respondent from the said shop room in the garb of the present writ petition.

Learned counsel for the State respondents submits that it has been admitted by the petitioner in paragraph 4 of the writ petition that the petitioner himself has constructed a shop room by encroaching upon PWD land.

Paragraph 4 of the writ petition clearly indicates that the petitioner has constructed a shop room in the wide front space adjoining the PWD road which is part and parcel of his property.

Be that as it may, since the representation submitted by the petitioner before the authority is still pending, the concerned authority, being the 3<sup>rd</sup> respondent herein, is directed to consider and dispose of the representation submitted by the petitioner dated 12<sup>th</sup> September, 2023 within three months from the date of communication of this order upon affording reasonable opportunity of hearing to all the interested persons including the petitioner and the private respondent, in accordance with law.

In the event it is found that the petitioner has also made unauthorised construction along with private respondent on any portion of the PWD land, the concerned authority shall be at liberty to take necessary steps for removal of the same.

With the aforesaid directions the writ petition is disposed of.

There shall however, be no order as to costs.

Since no affidavit is invited, the allegations contained in the petition are deemed not to be admitted.

Urgent certified website copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

**(Suvra Ghosh, J.)**