

42 20.11.2024
Ct. no.2
g.b.

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

WPA 26802 OF 2024

Milan Kumar Khutia
Vs.
The State of West Bengal & Ors.

Mr. Balaram Pandit
.... For the Petitioner

Mr. Chandi Charan De, Ld. AGP
Mr. Anirban Sarkar
.... For the Respondents
State

Mr. Kinkar Kumar Bhattacharya
Mr. Gourav Ghosh
....For the Respondent No.4

Mr. Manabendra Thakur
Mr. Swarup Kumar Ghosh
.....For the Private Respondent

Mr. Ayan Poddar
.....For the Respondent Nos. 5 and 6

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

Mr. Balaram Pandit, learned advocate appears for
the petitioner.

Mr. Chandi Charan De, learned advocate appears
for the respondents State.

Mr. Kinkar Kumar Bhattacharya, learned advocate
appears for the Respondent No.4.

Mr. Ayan Poddar, learned advocate appears for the Respondent Nos. 5 and 6.

Mr. Manabendra Thakur, learned appears for the Private Respondent.

The petitioner complains of an alleged encroachment and unauthorized construction on the PWD land at the behest of the private respondents. The petitioner submitted a representation dated **November 1, 2024, Annexure P-2 at page-17** to the writ petition, but the same has not yet been dealt with.

The private respondents jointly made the common submissions that the land on which encroachment is alleged is not the land of the PWD and the private respondents have not encroached any Government land at all. The private respondents have also denied the allegation of the petitioner that their egress and ingress of their property is disturbed. The private respondents further submit that in the records of right the subject land has been shown as "JOL". The petitioner has not obtained any conversion certificate in respect of the subject land.

In view of the above, the jurisdictional Block Land and Land Reforms Officer (B.L. & L.R.O) upon prior notice to the petitioner and the private respondents shall cause a physical inspection of the alleged encroachment and construction and shall submit his report before the petitioner, private

respondents and the jurisdictional Assistant Engineer, PWD.

This exercise shall be carried out and completed by the jurisdictional B.L. & L.R.O. positively within a period of **four weeks** from the date of communication of this order.

In the event such report confirms the alleged encroachment and construction on the PWD land then the jurisdictional Assistant Engineer, PWD after issuing a prior hearing notice of at least **seven days** to the petitioner and the private respondents and after giving them an opportunity of hearing shall decide the said representation dated **November 1, 2024** as referred to above by passing a reasoned order in accordance with law.

The entire exercise shall be carried out and completed by the jurisdictional Assistant Engineer, PWD positively within a period of **six weeks** from the date of receiving report from the jurisdictional B.L. & L.R.O. The reasoned order shall be communicated to the petitioner and the private respondents positively within a 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 case of the petitioner or the private respondents and they shall be at liberty to urge whatever points they wish to urge by relying upon

whatever records and documents they wish to rely upon before the jurisdictional Assistant Engineer, PWD.

In the event, the reasoned order confirms the alleged unauthorized construction and encroachment, the jurisdictional Assistant Engineer, PWD shall communicate the order to the jurisdictional Sub-Divisional Officer positively within a period of **three weeks** from the date of the said reasoned order to be passed, who shall take all necessary and consequential steps to give an immediate effect to the said reasoned order in accordance with law positively within **four weeks** from the date of receiving the reasoned order from the Assistant Engineer, PWD.

This order shall not create any right or equity in favour of the petitioner and in favour of the private respondents, if they do not succeed to their respective claims before the jurisdictional Assistant Engineer, PWD 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 26802 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.)