

**Court No. 2**  
**06.12.2024**  
Item no.18  
b.r.

**W.P.A. 28116 of 2024**  
***Abdul Ohab***  
**VS**  
***The State of West Bengal & Ors.***

**Mr. Hamidur Rahaman**  
**.... For the petitioner.**

**Mr. Chandi Charan De, Ld. AGP**  
**Ms. Reshma Chatterjee**  
**..... for the State.**

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

Mr. Hamidur Rahaman, learned advocate appears for the petitioner.

Mr. Chandi Charan De, learned Additional Government Pleader appears for the respondent nos. 1 to 7.

None appears for the private respondent no.8.

The petitioner complains of an alleged construction and encroachment on a portion of PWD land at the behest of the private respondent. The petitioner submitted a representation dated **September 06, 2024, annexure P-2** at **page 16** to the writ petition, the same has not been considered.

In view of the above, the respondent No. 6 upon notice to both the petitioner and the private

respondent No. 8 shall cause a physical inspection of the alleged encroachments, if caused by both petitioner and the private respondent on the alleged P.W.D. land and shall prepare a report. The report then shall be served to the petitioner, the private respondent No. 8 and the respondent No. 5.

This exercise shall be carried out and completed by the respondent No. 6 positively within a period of **six weeks** from the date of communication of this order.

The respondent No. 5 upon issuing a prior hearing notice of at least seven days to the petitioner and the private respondent shall consider the said representation dated **September 06, 2024** as referred to above and also the counter allegation of the private respondent whether the petitioner has also encroached any portion of the P.W.D. land after granting them an opportunity of hearing and shall pass a reasoned order in accordance with law.

It is made clear that, this Court has not gone into the merits of the allegation and counter allegation of the petitioner and the private respondent 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 respondent No. 5.

The entire exercise shall be carried out and completed by the respondent No. 5 positively within a period of **six weeks** from the date of receiving report from the respondent No. 6 and the reasoned order shall be communicated to the petitioner and the private respondent positively within a period of **one week** from the date of the said reasoned order to be passed.

In the event, the reasoned order confirms encroachment either by the petitioner or by the private respondent or by both the respondent No. 5 shall send the reasoned order to the respondent No. 3 positively within a period of **two 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 a period of **three weeks** from the date of receiving the said reasoned order.

It is made clear that, this order shall not create any right or equity in favour of the petitioner or the private respondent if they do not succeed to their respective allegations raised against each other before the respondent No. 5.

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. 28116 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.)**