

01.08.2024

Sl.No. 12
Ct.No. 2
Amalranjan

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

WPA 29038 of 2022

Swapana Bagchi

Vs.

The Competent Authority under Railways Act,
1989 and The Divisional Railway Manager,
Sealdah, Eastern Railway & Ors.

Mr. Amit Pan

Mr. Haridas Das.....for the petitioner

Mr. Ashim Kumar Ganguly

Mr. Sk. Md. Masud

...for the respondent nos. 8 & 10

Mr. S.C. Prasad

Mr. Pralay Bhattacharya

...for the respondent nos. 1-3, 5, 7 & 9

On the prayer of Mr. S.C. Prasad, learned counsel appearing for the respondent nos. 1-3, 5, 7 & 9 time to file affidavit-in-opposition stands extended pursuant to the direction of the Co-ordinate Bench dated September 29, 2023 till today.

The affidavit-in-opposition filed in court today is taken on record.

Copy has been served upon the petitioner.

Mr. Amit Pan, learned counsel appearing for the petitioner submits that there is no requirement to file any affidavit-in-reply thereto

and he agrees to proceed on the basis of the existing record.

Mr. Ashim Kumar Ganguly, learned Additional Government pleader appears for the respondent nos. 8 and 10.

The petitioner complains of alleged encroachment of Railways land at the behest of the private respondent nos. 11 and 12.

The private respondents are not represented, despite notice.

The petitioner submits a representation dated October 9, 2022, annexure P-5 at page 66 to the writ petition before the Railway Authorities, but the same has not yet been considered.

Mr. S.C. Prosad, learned counsel appearing for the Railways submits that pursuant to the earlier direction of the court necessary joint inspection had been carried out. In course of the inspection, it was found, as submitted by Mr. Prosad that, both the petitioner and the private respondents have encroached the Railway land.

Learned Additional Government pleader submits a report dated February 29, 2024 issued under the seal and signature of the jurisdictional Block Land & Land Reforms Officer, Chakdah,

Nadia. The report also confirms the encroachment on the subject railway land.

After considering the submissions made on behalf of the parties and upon perusal of the materials on record, to sub-serve justice, the petitioner shall serve, a copy of the writ petition along with a copy of the affidavit-in-opposition filed by the railways today as well as a copy of today's order upon the respondent no. 2.

The respondent no. 2 then upon issuing prior hearing notice of at least 7 days to the petitioner and the private respondents, after giving them opportunity of hearing shall decide the representation of the petitioner dated October 9, 2022, annexure P-5 at page 66 to the writ petition by passing a reasoned order in accordance with law.

While deciding the issue, the respondent no. 2 shall also take into consideration the report of the jurisdictional Block Land & Land Reforms Officer dated February 29, 2024 as mentioned hereinabove.

The entire exercise shall be carried out and completed by the respondent no. 2 positively within a period of 6 weeks from the date of communication of this order. The respondent no. 2 then shall communicate this reasoned

order to the petitioner and the private respondents positively within a further period of one week from the date of said reasoned order to be passed.

It is made clear that this court has not gone into the merits of the writ petition.

In the event, the respondent no. 2 is also of the view of that the Railway land has been encroached, he shall refer the matter before the appropriate authority in terms of Section 147 of the Railways Act, 1989 positively within a period of 2 weeks from the date of said reasoned order to be passed and the appropriate authority shall take all necessary and consequential steps to give an immediate effect to the said reasoned order in terms of Section 147 of the Railways Act, 1989 positively within a period of 4 weeks from the date of the said reference to be made by the respondent no. 2.

With the above observations and directions, this writ petition **WPA 29038 of 2022** stands disposed of, without any order as to costs.

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

(**Aniruddha Roy,J.**)