

Court No. 2
18.11.2024
(Item No. 18)
(AB)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. 28246 of 2023

Jamiruddin Mallick
VS
The State of West Bengal & Ors.

Mr. Sabyasachi Chatterjee
Mr. Subhrajit Saha
Mr. Kiron Sk.
Mr. Dipankar Sal
Mr. Sarajit Ray
.... For the petitioner
Ms. Kalpita Paul
.... For the State

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

Mr. Sarajit Ray, learned advocate appears for the petitioner.

Ms. Kalpita Paul, learned advocate appears for the respondent Nos. 1 to 3.

None appears for the private respondents, despite notice.

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 24, 2023, Annexure P-2 at page-32** to the writ petition, but the same has not yet been dealt with.

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 24, 2023** 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 28246 of 2023** stands **disposed of**, without any order as to costs.

Photostat certified copy of this order, if applied for, be furnished expeditiously.

(Aniruddha Roy, J.)