

05.12.2024
Ct. no.2
Sl. No. 6
Moumita

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

WPA 28584 of 2023

**Kinkar Halder
Vs.
The State of West Bengal & Ors.**

**Mr. Pankaj Halder
Mr. Tapas Manna
Mr. Subhendu Bhattacharjee
Ms. Seuli Banerjee
.... For the Petitioners**

**Mr. Soumitra Bandyopadhyay, Sr. Govt. Adv.
Ms. Suchana Banerjee
....for the State/respondents**

**Mr. Mahadeb Mondal
....for the private respondent no. 8
(Appears in person)**

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

Mr. Pankaj Halder, learned counsel appears for the petitioner.

Mr. Soumitra Bandyopadhyay, learned counsel appears for the state/respondent nos. 1 to 7.

Mr. Mahadeb Mondal, learned counsel appears for respondent no. 8, appears in person.

Respondent nos. 9 and 10 are not represented.

The petitioner alleged unauthorized construction and encroachment of PWD land at the behest of the private respondents referring **annexure P-6 at page 26** to the writ petition.

Learned counsel appearing for the petitioner submits that proceeding has already been initiated under **Section 10** of the **West Bengal Highways Act, 1964**. He submits further that the jurisdictional Assistant Engineer, PWD and respondent no. 4 must conclude this proceeding in accordance with law within a time frame.

Respondent no. 8 appearing in person submits that the petitioner is an extremely influential person who resides far away from the place where encroachment has been alleged. Petitioner has no land in the close surrounding of the portion of land whereupon encroachment has been alleged. He submits that the plot of land on which encroachment has been alleged was purchased by him long back by virtue of registered conveyance.

In view of the above, the jurisdictional Assistant Engineer, PWD shall refer the matter positively within a period of **two weeks** from the date of communication of this order before the respondent no. 4.

The respondent no. 4 then upon prior notice to the petitioner and all the private respondents including the private respondent no. 8, who appears in person today and after granting them an opportunity of hearing shall decide the issue by passing a reasoned order in accordance with law.

This exercise shall be carried out and completed by the respondent no. 4 positively within a period of **six**

weeks from the date of receiving reference from the jurisdictional Assistant Engineer, PWD and the reasoned order shall be communicated to the petitioner and all the private respondents within a further period of **one week** 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 rival claims of the parties. The petitioner and the private respondents 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.4**.

It is made clear that 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 **respondent no.4** strictly in accordance with law.

In the event the reasoned order confirms the encroachment alleged by the petitioner on PWD land, the appropriate authority shall take all necessary and consequential steps to give an immediate effect to the said reasoned order but positively within a period of **eight weeks** from the date of the said reasoned order to be passed.

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 28584 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.)