

30.07.2024
Ct. No. 2
Sl. No. 55
tbsr

WPA 29222 of 2023

Hafijur Rahaman Laskar
Vs.
State of West Bengal & Ors.

Mr. Md. Zeeshanuz Zaman
....for the petitioner

Mr. Jayanta Samanta
Mr. Kushal Biswas
....for the State

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

Md. Zeeshanuz Zaman, learned advocate appears for the petitioner.

Mr. Jayanta Samanta, learned State advocate appears for the respondent Nos. 1 to 7.

This is the second round of writ petition. Alleging an alleged encroachment on the public land, the petitioner filed a previous writ petition being WPA 25822 of 2023. The said writ petition was disposed of by a Coordinate Bench by its order dated **November 1, 2023, Annexure P-3 at page 16** to the writ petition directing the respondent no. 4 to consider the grievance of the petitioner by passing a reasoned order.

Learned advocate for the petitioner submits that in the previous representation submitted by the petitioner there was a typographical error with respect to the plot number. Subsequently, on **December 20,**

2023, Annexure P-4 at page 18 to the writ petition the petitioner submitted a fresh representation before the respondents including the respondent no. 5 with the correct plot number. The correct plot number is **1434**.

The allegation is against the private respondent nos. 8 to 10 to cause the alleged encroachment.

The private respondents are not represented today, despite notice. The law presumes that, they do not intend to defend this writ petition.

In view of the above, the respondent no. 5 is directed upon prior notice to the petitioner and the private respondents to cause a physical inspection of the alleged encroachment on the public road and then after granting an opportunity of hearing to the petitioner and the private respondents shall dispose of the said representation dated December 20, 2023, as referred to above by passing a reasoned order.

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 communication of this order. The respondent no. 5 then shall communicate its reasoned order to the petitioner and the private respondents positively within a further 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. The petitioner and the private respondents shall be at liberty to urge whatever points they wish to rely upon before the respondent no. 5 but the same shall not travel beyond the scope of the said representation dated December 20, 2023, as referred to above.

In the event, the reasoned order confirms the alleged encroachment of the public land, the respondent no. 4 shall immediately upon being communicated with the said reasoned order shall take all necessary and consequential steps to give an immediate effect to the said reasoned order strictly in accordance with law positively within a further period of **six weeks** from the date of communication of the said reasoned order to the respondent no. 4.

In the event, any assistance is sought for by the respondent no. 4 from the respondent no. 7, such assistance shall be immediately provided to the respondent no. 4 by the respondent no. 7.

It is made clear that, this order shall not create any right or equity in favour of the petitioner if the petitioner does not succeed to its claim in terms of its representation 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 29222 of 2023** 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.)