

**Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Jurisdiction**

48 08.4.2024
Sc Ct. no.2

WPA 1005 OF 2022

Sri Mantu Chandra Roy

Vs.

The State of West Bengal & Ors.

Mr. Jagriti Mishra
Mr. Raj Kumar Mitra
Ms. Mrinmayee Das.

....For the Petitioner

Mr. Momenur Rahman
Mr. Sourav Sarkar.

....For the Respondent/
State

In the light of the issue involved in this writ petition Mr. Momenur Rahman, learned State counsel appearing for the respondents submits that, to decide the issue the appropriate authority is the ***Divisional Forest Officer, Working Plant (North Division), Darjeeling.***

In view of the above submissions made, the said authority, mentioned above, is impleaded in the writ petition by this Court for the ends of justice.

Learned advocate on record for the petitioner shall implead the said authority by putting his signature in the cause title of the original writ petition. The petitioner shall then serve a copy of

the said writ petition to the said impleaded authority of the Forest Department along with a copy of today's order.

It is made clear that, subject to the said impleadment being made, as directed above, this order shall be effected.

Mr. Momenur Rahman, learned State counsel shall also serve a copy of today's order upon the said impleaded respondent.

Grievance of the petitioner is that, the Forest Department alleged to have encroached a portion of the land of the petitioner and constructed concrete pillars thereon.

Referring to a representation dated **April 5, 2022, Annexure-P7 at page 35** to the writ petition Mr. Jagriti Mishra learned counsel for the petitioner submits that, the said representation has not yet received the attention of the State authority.

As submitted on behalf of the State authority, the impleaded respondent as named above is the appropriate authority to consider the said representation.

Accordingly, the **Divisional Forest Officer, Working Plant (North Division), Darjeeling** upon issuing a **prior** hearing notice of at least **seven days** to the petitioner and the respondent no.2 and

after giving them an opportunity of hearing shall decide the representation of the petitioner dated **April 5, 2022, Annexure-P7 at page 35** to the writ petition by passing a reasoned order in accordance with law.

The entire exercise, as directed above, shall be carried out and completed by the said **Divisional Forest Officer, Working Plant (North Division), Darjeeling** positively within a period of **six weeks** from the date of communication of this order and he shall communicate his reasoned order to the petitioner and the respondent no.2 positively within a **further** period of **two weeks** from the date of the said reasoned order to be passed.

Learned counsel for the petitioner specifically submits that, the petitioner is the sole and absolute owner and occupier of the subject land in question which is measuring about **96 decimal** of land and there is no co-owner or co-sharer therein. He further submits that, as a land owner no one else is required to be heard.

While deciding the representation the concerned **Divisional Forest Officer, Working Plant (North Division), Darjeeling** shall carefully examine the Title documents of the petitioner in respect of such land is concerned.

In the event the concerned **Divisional Forest Officer, Working Plant (North Division), Darjeeling** requires any assistance from the Land Revenue Department, he shall be free to take assistance of the jurisdictional **Block Land & Land Reforms Officer (BL&LRO)** by production of all the relevant land records and by assisting him in the hearing.

In the event, the reasoned decision goes in favour of the petitioner then the appropriate authority of the Forest Department shall take all consequential steps to give effect thereto positively within a period of **two weeks** from the date of communication of the said reasoned order to such authority.

It is made clear that, this Court has not gone into the merits of the claim of the petitioner in any manner. The petitioner and all other interested parties shall be at liberty to urge whatever points they wish to urge by relying upon whatever records and documents they wish to reply upon before the said **Divisional Forest Officer, Working Plant (North Division), Darjeeling**.

It is made clear that, this order shall not create any right or equity in favour of the petitioner

if the petitioner is not eligible to receive his claim strictly in accordance with law.

Since affidavits are not called for, the allegation made in the writ petition are deemed not to have been admitted by the respondents.

With the above observations and directions, this writ petition, **WPA 1005 of 2022** stands ***disposed of***, without any order as to costs.

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

(Aniruddha Roy, J.)