

CALCUTTA HIGH COURT IN THE CIRCUIT BENCH
AT JALPAIGURI

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16.12.2024
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WPA 2570 of 2024

Gautam Mohanta
Vs.
The State of West Bengal & Ors.

Mr. Debanjan Das
....For the petitioner

Mr. Hirak Barman
Mr. Bikash Singha
...For the State

Mr. Ratan Banki
Mr. Bishwaraj Agarwal
...For the respondent nos. 5 & 7

Ms. Supriya Singh
...For the respondent no. 9

Affidavit of service filed on behalf of the petitioner is taken on record.

Writ petition is heard in presence of the learned advocates representing the petitioner, State-respondents and Project Director, Asian Highway-48 being respondent no. 9. However, in spite of notice private respondent nos. 10 to 12 are not represented today.

Learned advocate representing the petitioner has submitted that the grievance of the petitioner is encroachment of Government lands for Asian

Highway-48 by the private respondents and it has already been determined by the Project Director, Asian Highway-48 and Executive Engineer, Construction Division Special Project being respondent no. 9 that private respondents have made unauthorized encroachment on such Government lands affecting right of the petitioner in connection with ingress and egress. Petitioner prays for implementation of the order dated 23rd April, 2024 passed by respondent no. 9 by removing encroachment made by the private respondents.

On perusal of the order dated 23rd April, 2024 it transpires that not only private respondents it has been held by the respondent no. 9 that petitioner/his father has also made encroachment on Government lands which requires removal. It is also observed by the respondent no. 9 in the order dated 23rd April, 2024 that the present petitioner and his father could not establish their claim with regard to their allegations. Therefore, their claim could not be accepted and did not stand. It has also been held therein that the present petitioner is not eligible to receive his claim.

Having perused such order dated 23rd April, 2024 it appears that the petitioner has not come before this Court with clean hands though there is

an allegation of erection of unauthorized construction by the private respondents on the land acquired for construction of road by Asian Highways authority but while adjudicating the issue respondent no. 9 found that petitioner also made unauthorized encroachment. Such disclosure of facts has led this Court to conclude that petitioner by filing this writ petition has made an attempt to take undue advantage based on the order dated 23rd April, 2024 by way of removal of unauthorized encroachments made by private respondents though the petitioner himself is found to be responsible for making unauthorized encroachment. Therefore, present writ petition stands dismissed.

However, this order shall not preclude the concerned authority of Asian Highway-48 for implementation of the order dated 23rd April, 2024 by removing unauthorized encroachments in accordance with law.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)