

01.12.2025
Item No.53
Ct. No. 1
KS

W.P.A. (P) 123 of 2022

Hyder Ali Mondal
Vs.
The Union of India & Ors.

Mr. Sk. Md. Galib, Sr. Govt. Adv.

Ms. Sujata Mukherjee

.....For the State

Mr. Malay Bhattacharya

Ms. Shefa Mondal

.....For the Private Respondent

PER, SUJOY PAUL, ACJ.:

1. None for the petitioner.

2. Finally heard.

3. In the petition, following relief is claimed:-

(a) A writ in the nature of Mandamus commanding the respondents, their agents, servants and associates and each one of them to stop the unauthorized construction and necessary order be passed for demolition of the unauthorized construction over dag no. 830, J.L.No. 160, mouza- Chak uprasole, under block-Bishnupur, Police station-Bishnupur, District-Bankura in view of the provision of the Indian Forest Act, 1927 thereof and further commanding them to take necessary steps in accordance with law by considering the representation dated 11.2.2022 being annexure P-5 of this writ application;

(b) A Writ in the nature of Certiorari directing the respondents to produce the records of the case before this Hon'ble High Court so that proper Justice may be administered by demolishing the unauthorized construction made by the respondent no.8;

(c) A Rule NISI in terms of prayers (a) and (b) and made the Rule absolute after hearing the parties;

(d) An ad-interim order in terms of prayer (a);

(e) Any other order or orders, writ or writs and/or direction or directions as your Lordships may deem fit and proper;"

4. During the course of hearing Id. Counsel for the official and private respondents pointed out that petitioner himself is an encroacher, which is evident from communication dated 02.11.2021 (Annexure P4) and also the documents filed alongwith the report. Petitioner previously prayed for time to file exception but, no such exception has been filed, till date. Thus, we find no reason to disbelieve documents filed by petitioner himself as well as the averments of report and documents filed therewith which shows that petitioner himself is an encroacher. Thus, at the behest of such a petitioner, no relief is due in this PIL.
5. Interestingly, State has filed a report in the form of affidavit and averred as under:-

"11. That from Annexure R1 herein and Annexure P1 of the Writ Petition, it becomes abundantly clear that the land in question is a Forest Land. That it is submitted that there is usage of Forest area for non forest purpose and it has become settled law that no non forest activity can be permitted. The occupation/ construction etc on Forest land is completely illegal.

12. That I submit that, while the Range Officer, Bankadaha Range, was in process to evict the

illegal encroachment the office of the respondent have received one copy of the writ petition on 18.11.2022 being WPA No. (P)-123 of 2022 filed before Hon'ble High Court, Calcutta, which is pending for adjudication.

13. That I further submit that as per report received from Range Officer, Bankadaha Range, since this instant writ petition is pending before this Hon'ble Court for its final adjudication, therefore same status has been maintained as previous."

6. A plain reading of this paragraphs shows that the land in question is certainly a forest land and there exists encroachments, which are already noticed by respondents (paragraph 12). However, for a strange reason, they have not taken the proceedings to a logical end and reasons shown is pendency of this case. In our opinion, once illegal construction or encroachment is noticed in the forest land, the Department was under an obligation to remove such encroachment and restore the land in its original form. Thus, in the larger public interest, we direct the respondents shall take immediate action against all illegal encroachments including that of the petitioners and remove them in accordance with law. The said exercise shall be

completed within 90 days from today. The Government Counsel shall communicate this order to the concerned authorities.

7. With the aforesaid and without expressing any opinion on merits, PIL is disposed of.
8. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(SUJOY PAUL, ACJ.)

(PARTHA SARATHI SEN, J.)