

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

44 06.01.2025
Sc Ct. no.2

WPA 6094 OF 2024

Tapan Kumar Sahoo

Vs.

The State of West Bengal & Ors.

Mr. Kamal Mishra
Mr. Pratap Sanfui
Ms. Poushali Das.

.... For the Petitioner

Mr. Chandi Charan De, AGP
Mr. Anirban Sarkar.

.... For the Respondents
State

Mr. Pratik Majumder

.... For the Respondent
No.9

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

Mr. Kamal Mishra, learned advocate appears for
the petitioner.

Mr. Chandi Charan De, learned Additional
Government Pleader appears for the respondents State.

Mr. Pratik Majumder, learned counsel appears for
the private respondent no.9.

The petitioner complains of an alleged
encroachment and unauthorized construction on the
PWD land at the behest of the private respondent. The
petitioner submitted a representation dated
November 25, 2023, Annexure – P2 at page – 29 to

the writ petition, but the same has not yet been dealt with.

Learned advocate for the private respondent no.9 submits that there is a civil suit pending between the private respondent and the petitioner in which there is an order of *status quo* with regard to the nature and character of the property. The petitioner has violated the order of *status quo*. However, the State is not a party to the said civil suit.

In any event if an encroachment is found on a State land, such an encroachment has to be removed following due process of law, so long there is no restraint order on the State authority. The said restraint order is not binding on the State authority as the State authority was not a party to the said civil suit.

In view of the above, the jurisdictional Block Land and Land Reforms Officer (B.L. & L.R.O) upon prior notice to the petitioner and the private respondent shall cause a physical inspection of the alleged encroachment and construction and shall submit his report before the petitioner, private respondent and the jurisdictional Assistant Engineer, PWD.

This exercise shall be carried out and completed by the jurisdictional B.L. & L.R.O. positively within a

period of **four weeks** from the date of communication of this order.

In the event such report confirms the alleged encroachment and construction on the PWD land then the jurisdictional Assistant Engineer, PWD after issuing a prior hearing notice of at least **seven days** to the petitioner and the private respondent and after giving them an opportunity of hearing shall decide the said representation dated **November 25, 2023** as referred to above by passing a reasoned order in accordance with law.

The entire exercise shall be carried out and completed by the jurisdictional Assistant Engineer, PWD positively within a period of **six weeks** from the date of receiving report from the jurisdictional B.L. & L.R.O. The reasoned order shall be communicated to the petitioner and the private respondent positively within a 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 or the private respondent and they 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 jurisdictional Assistant Engineer, PWD.

In the event, the reasoned order confirms the alleged unauthorized construction and encroachment, the jurisdictional Assistant Engineer, PWD shall communicate the order to the jurisdictional Sub-Divisional Officer positively within a period of **three weeks** from the date of the said reasoned order to be passed, who shall take all necessary and consequential steps to give an immediate effect to the said reasoned order in accordance with law positively within **four weeks** from the date of receiving the reasoned order from the Assistant Engineer, PWD.

This order shall not create any right or equity in favour of the petitioner and in favour of the private respondent, if they do not succeed to their respective claims before the jurisdictional Assistant Engineer, PWD 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 6094 of 2024** stands **disposed of**, without any order as to costs.

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

(Aniruddha Roy, J.)