

S/L 4
22.07.2025
Court. No. 19
Sourav

WPA 7811 of 2023

Johur Ali
Vs.
Union of India & Ors.

Mr. Arindam Das
Mr. Snehasish Ghosh

...for the petitioner.

Ms. Manika Roy
Ms. Ankita Chowdhury
Mr. Atanu Sur

...for NHAI.

Mr. Sagar Saha

...for the Union of India.

Mr. Soumitra Bandyopadhyay, Sr. Govt. Adv.
Mr. Priyabrata Batabyal

...for the State.

1. The parties to the instant writ petition are represented by their respective learned advocates.
2. By filing the instant writ petition, the writ petitioner has prayed for issuance of appropriate writ/writs against the respondents/authorities, more specifically, against the respondent no. 7/authority for quashing and/or rescinding and/or cancelling the order dated 23.09.2022 as passed in Misc. Case No. 07 of 2022 whereby and whereunder the said respondent no. 7/authority declined to consider the comprehensive representation of the writ petitioner favourably and at the same time passed an order against the writ petitioner for removal of unauthorized encroachment as made by him.
3. At the time of hearing, learned advocate appearing on behalf of the writ petitioner at the very outset draws attention of this Court to Page Nos. 59 to 61 of the instant

writ petition, being a copy of the order dated 08.08.2022 as passed by a co-ordinate Bench of this Court in an earlier round of litigation being WPA 150 of 2022.

4. It is pertinent to mention herein that while passing the said order dated 08.08.2022 in WPA 150 of 2022, the co-ordinate Bench granted liberty to the present writ petitioner to submit a comprehensive representation within a stipulated period before the respondent no. 7/authority herein and the respondent no. 7/authority was directed to consider such representation in accordance with law after giving an opportunity of hearing to the writ petitioner.
5. Sufficient materials have been placed before this Court that a comprehensive representation has been submitted by the writ petitioner, a copy of which has been annexed at Page Nos. 62 to 68 of the instant writ petition.
6. In course of hearing, learned advocate appearing on behalf of the writ petitioner took me to several orders as passed by the respondent no. 7/authority in Misc. Case No. 07 of 2022.
7. It is submitted that in the said Misc. Case, the respondent no. 7/authority while considering the representation of the writ petitioner directed for holding a joint demarcation. It is further submitted that the respondent no. 7/authority while passing the order under challenge, most mechanically placed his reliance upon such joint demarcation report without assigning any reason therefor and at the same time, the respondent no. 7/authority has failed to visualize that the said enquiry report is faulty

inasmuch as no materials have been placed before the respondent no. 7/authority that the writ petitioner has encroached 1 decimal of land in Mouza – Umarpur under P.S. Raghunathganj, Murshidabad.

8. It is further submitted on behalf of the writ petitioner that the present writ petitioner has constructed his property over 5 decimals of land which is rayati land and the same belongs to the writ petitioner.
9. It is thus submitted that the instant writ petition may be allowed and appropriate relief/reliefs may be given to the writ petitioner in terms of the prayers made in the instant writ petition.
10. Per contra, Mr. Batabyal, learned advocate appearing on behalf of the respondent/State, duly led by Mr. Bandyopadhyay, learned senior government advocate at the very outset draws attention of this Court to the different orders as passed by the respondent no. 7/authority in Misc. Case No. 07 of 2022. It is submitted by Mr. Batabyal that from the order under challenge as well as the previous orders as passed in the said Misc. Case, it would reveal that the joint inspection was ordered by the respondent no. 7/authority wherein the writ petitioner was granted liberty to remain present.
11. It is further submitted by Mr. Batabyal that from the order under challenge dated 23.09.2022, it would reveal that it is the specific case of the writ petitioner before the respondent no. 7/authority that he is the owner of 4 decimals of land in the aforementioned plot.

12. It is further submitted by Mr. Batabyal that on comparative study of the comprehensive representation of the writ petitioner and the enquiry report as submitted by the respondent no. 7/authority, it would reveal that the writ petitioner has practically erected his building over 0.053 acres of land i.e., 5 decimals of land. It is thus submitted by Mr. Batabyal that the respondents/authorities have made no mistake in coming to a conclusion that the writ petitioner has encroached 1 decimal of land in plot no. 575 of Mouza – Umarpur under P.S. Raghunathganj, Murshidabad.
13. On careful consideration of the entire materials as placed before this Court and after hearing the learned advocates for the contending parties, it reveals to this Court that it is the specific case of the writ petitioner that he is the owner of the 4 decimals of land in Plot No. 575 in the aforementioned Mouza. The enquiry report as has been submitted before the respondent no. 7/authority is based on a joint demarcation wherein the writ petitioner was present. The said demarcation report clearly indicates that the writ petitioner is occupying 0.053 acres of land i.e., 5 decimals of land in the said plot by constructing three storied building thereon.
14. No materials could be placed before this Court at the time of hearing that the enquiry report as prepared by the BL & LRO, Raghunathganj and the PD NHAI, PIU Malda are faulty.
15. This Court sitting in a judicial review cannot act as an appellate court and, therefore, this writ court must

refrain itself from interfering with the factual finding as arrived at by the respondent no. 7/authority unless glaring illegality and/or irregularity and/or perversity is shown in the impugned order. On the contrary, it appears to this Court that the respondent no. 7/authority is perfectly justified in passing the order under challenge and his decision making process is unquestionable.

16. With the aforementioned observation, the instant writ petition being **WPA 7811 of 2023** is dismissed.
17. There shall be, however, no order as to costs.
18. Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance with all the necessary formalities.

(Partha Sarathi Sen, J.)