

Court No. 2
10.02.2025
(Item No. 22)
(AB)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. 8502 of 2023

Tapan Kumar Samai
VS
The State of West Bengal & Ors.
Mr. Bhaskar Chnadra Manna
.... For the petitioner
Mr. Ram Chandra Guchhait
.... For the State respondents

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

Mr. Bhaskar Chandra Manna, learned advocate appears for the petitioner.

Mr. Ram Chandra Guchhait, learned advocate appears for respondent Nos. 1 to 7(a).

None appears for respondent No. 8.

None appears for private respondent Nos. 9 and 10.

The petitioner complains of alleged encroachment of the land belongs to the irrigation department of the State and an unauthorized construction thereupon at the behest of the private respondent Nos. 9 and 10. The petitioner submitted representation dated **February 17, 2021, annexure P-5** at **page 26** to the writ petition, but the same has not yet been disposed of.

In view of the above, the respondent No. 5 upon serving a prior notice to the petitioner and private respondent Nos. 9 and 10 is directed to cause a physical inspection of the alleged encroachment and shall prepare a report with a proper sketch map of encroachment, if any. The respondent No. 5 shall serve a copy of the report along with sketch map, if any, to the petitioner, private respondent Nos. 9 and 10 and the respondent No. 7. This exercise shall be carried out and completed by the respondent No. 5 positively within a period of **four weeks** from the date of communication of this order.

If the encroachment is confirmed, the respondent No. 7 upon receiving the report from the respondent No. 5 and upon issuing a prior hearing notice of at least seven days to the petitioner and the respondent Nos. 9 and 10 and after granting them an opportunity of hearing shall decide the representation of the petitioner dated **February 17, 2021, annexure P-5** at **page 26** by passing a reasoned order in accordance with law.

This exercise shall be carried out by the respondent No. 7 positively within a period of **six weeks** from the date of receiving the report from the respondent No. 5. The reasoned order shall be communicated to the petitioner and the private

respondents positively within **a week** 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 claim of the petitioner and the parties 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 respondent No. 7 but the same shall not travel beyond the scope of the said representation dated **February 17, 2021, annexure P-5** at **page 26** to the writ petition.

In the event, the reasoned order further confirms the encroachment on the public land then respondent No. 7 and/or any other appropriate State authority shall take all necessary and consequential steps to give an immediate effect to the said reasoned order in accordance with law but positively within a period of **four weeks** from the date of the said reasoned order to be passed and/or communicated to the appropriate State authorities as the case may be.

In the event, removal of encroachment is there, the jurisdictional Police authority shall render all necessary assistance to the appropriate authority, if asked for.

It is made clear that, this order shall not create any right or equity in favour of the petitioner or in favour of the respondent Nos. 9 and 10, if they do not

succeed to their respective contentions before respondent No. 7 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 8502 of 2023** stands **disposed of**, without any order as to costs.

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

(Aniruddha Roy, J.)