

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

25.03.2025

Ct. no.2

Sl. 5

Moumita

WPA 13900 of 2024

Asim Mahata

Vs.

The State of West Bengal & Ors.

Mr. Debnarayan Patra

.... For the Petitioner

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

Ms. Sujata Mukherjee

....For the State/respondents

Mr. Sailen Naskar

.... For the Resp. no.6.

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

Mr. Debnarayan Patra, learned advocate appears for the petitioner.

Ms. Sujata Mukherjee, learned State advocate led by Mr. Sk. Md. Galib, learned Senior Government Advocate appears for the State-respondents.

Mr. Sailen Naskar, learned advocate appears for the private respondent no.6,

The petitioner complains of an alleged encroachment and unauthorized construction on the PWD land at the behest of the private respondent no.6. The petitioner submitted a representation dated

February 12, 2024, Annexure P-4 at page-33 to the writ petition, but the same has not yet been dealt with.

Learned Counsel for the private respondent no. 6, at the outset, denies and disputes the allegations of encroachment. He submits that there is no encroachment on the PWD land. Whatever construction has been made the same has been made on the rioti land of the private respondent no.6.

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 respondents 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 **February 12, 2024** 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 13900 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.)