

13.02.2025
Ct. No. 2
M/L Sl. No. 15
Moumita

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

WPA 13565 of 2023

Ram Kumar Dey
Vs.
The State of West Bengal & Ors.

Mrs. Saswati Manna
Mr. Indradeep Pal
Sk. Mustafi Rahaman

.....For the Petitioner

Mr. Chandi Charan De

Ld. Addl. Govt. Pleader

Mr. Anirban Sarkar
Mr. Manowar Ali

....For the State

Mr. Indradeep Pal, learned Advocate appears for the petitioner.

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

Two plots of land ***portion of Dag No. 168*** and ***portion of Dag No. 169*** are the subject matter of this writ petition. The charges against the petitioner are that the petitioners are encroachers in respect of both the said two plots. Insofar as portion of ***Dag No. 169*** is concerned, the State has filed a report in the form of affidavit affirmed on ***January 19, 2024***.

Page 16 of the report shows that the portion of ***Dag No. 169*** has been released by the requiring body and the petitioner is in possession thereof. Thus it is evident the portion of ***Dag No. 169*** which has already

been released is free from encumbrance and is in absolute possession of the petitioner. Thus, no charge of encroachment shall survive against the petitioner in so far as the portion of **Dag No. 169** is concerned and accordingly the charge of encroachment against the petitioner and against the said portion of **Dag No. 169** stands **set aside** and **quashed**.

Insofar as portion of **Dag No. 168** is concerned there is no conclusive stand of the said available on record.

Accordingly, the petitioner shall submit a comprehensive representation restricted to the said portion of **Dag No. 168 Mouja Ruia, Dist. North 24 Parganas** before the respondent no. 4 within a period of **one month** from the date.

It is pertinent to note that the petitioner claims to be still in possession in respect of the said portion of **Dag No. 168**.

After receiving representation from the petitioner the respondent no. 4 upon a prior notice of hearing of at least **seven days** to the petitioner, and respondent nos. 7 and 8 and after granting them an opportunity of hearing and upon production of the relevant land records shall decide the representation by passing a reasoned order in accordance with law.

The entire exercise shall be carried out and completed by the respondent no. 4, positively within a period of **eight weeks** from the date of the receiving representation from the petitioner. The reasoned order shall be communicated to the petitioner, respondent nos. 7 and 8 positively within a period of **one week** from the date of the said reasoned order to be passed.

In the event the reasoned order shows that there is no encroachment at all, then no further steps is to be taken as the petitioner is already in possession.

In the event the reasoned order confirms encroachment by the petitioner then the respondent no. 7 take all necessary and consequential steps in accordance with law to give an immediate effect thereto.

It is made clear that, this Court has not gone into the merits of the claim of the petitioner and the petitioner shall be at liberty to urge whatever points he wishes to urge by relying upon whatever records and documents he wishes to rely upon before the respondent no.4.

It is made clear that, this order shall not create any right or equity in favour of the petitioner, if the petitioner does not succeed to his claim before the respondent no. 4, strictly in accordance with law.

It is once again clarified that the proceeding shall take place before the respondent no. 4 in terms of the representation to be filed by the petitioner only in respect of portion of ***Dag No. 168 Mouja Ruia, Dist. North 24 Parganas.***

Since affidavits are not called for, the allegations made in the writ petition are deemed not to have been admitted by the respondents.

With the above observations and directions this writ petition, **WPA 13565 of 2023** stands **disposed of**, without any order as to costs.

(Aniruddha Roy, J.)