

WPA 18703 of 2021

Najma Roy
Vs.
State of West Bengal and Ors.

Mr. Sanjay Mukherjee
Mr. Dhananjay Nayak
....for the petitioner

Mr. Amitesh Banerjee
Ms. Ipsita Banerjee
....for the State

Mr. Manojit Bhattacharya
Mr. Amalendu Bikash Dutta
....for the private respondents

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner intends to build a hospital on a land purchased by him. After purchased of such land, he found that there is an encroachment done by the private respondents in front of the petitioner's property on public land. The petitioner approached the concerned ADM for taking steps in terms of the Act of 1962. Representation was made on 15.10.2021 for removal of such encroachment from public land, but the same has not been responded to.

Learned counsel appearing on behalf of the private respondents denies the allegations and submits as follows. The petitioner has encroached a portion of public land while constructing the hospital. There are

civil suits and other proceedings pending between the private parties over several issues pertaining to the property in question.

Learned senior counsel representing the State relies on the report filed earlier and submits as follows. Enquiry reveals that encroachment has been done not only by the private respondents, but also by the petitioner over public land belonging to the Irrigation Department. However, there are at least three points of access from the petitioner's land to the road in front.

At this stage, learned counsel appearing on behalf of the petitioner submits that the petitioner would remove encroachment, if any, made by him inadvertently while constructing the building.

It does not appear that the petitioner has made any representation before the concerned SDM for taking action for removal of encroachment of public land in terms of the Act of 1962.

In view of the above, the petitioner shall be at liberty to approach the concerned SDM praying for removal of encroachment from public land. In the event the same be made within a fortnight from this date, the concerned SDM shall decide the representation within six weeks from the date of receipt of such representation upon hearing the parties.

The petitioner shall also comply with the undertaking give by him before this Court that he shall remove encroachment of upon any public land, if any, made by him while constructing the building in question.

As affidavits were not called for, the allegations made in the writ petition are deemed not to have been admitted.

With these observations, the writ petition is disposed of.

Urgent photostat certified copies of this order may be delivered to the learned Advocates for the parties, if applied for, upon compliance.

(Jay Sengupta, J.)