

S/L 17
24.09.2025
Court. No. 19
Sourav

WPA 24316 of 2024

**Sudarsan Samanta
Vs.
The State of Wes Bengal & Ors.**

*Mr. Dibyendu Chatterjee
Mr. Mainak Singha Barma
Ms. Satabdi Das*

...for the petitioner.

*Mr. Ranjan Kali
Mr. Suresh Kumar Sahoo*

...for the respondent nos. 9 and 10.

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

...for the State.

1. The writ petitioner, the private respondents and the respondent/State are represented by their respective learned advocates.
2. At the time of hearing, Mr. Kali, learned advocate appearing on behalf of the private respondents at the very outset raises the point of maintainability of the instant writ petition. Placing reliance upon an order dated 09.10.2023 as passed by a co-ordinate Bench of this Court in *WPA 26665 of 2022 (Arati Samanta Vs. The State of West Bengal & Ors.)*, it is submitted by Mr. Kali that on perusal of the said order dated 09.10.2023, it would reveal that on an earlier occasion the said co-ordinate Bench rejected the contention of the writ petitioner practically on the self-same cause of action.
3. It is submitted by Mr. Kali that the present writ petitioner being the donee of the property in question of which the earlier writ petitioner was the donor has practically stepped into the shoes of the said Arati

Samanta and, therefore, on the self-same cause of action, the present writ petitioner cannot maintain the instant writ petition.

4. On careful consideration of the entire materials as placed before this Court, this Court finds no merit in the submission of Mr. Kali in view of the fact that it is the specific case of the writ petitioner that on account of alleged encroachment over the land of the respondent/State which is situated in front of the writ petitioner's property, he is facing problem as to the egress and ingress into his property.
5. Since in considered view of this Court the cause of action is continuing one, there cannot be any *res judicata* despite dismissal of the earlier writ petition by a co-ordinate Bench of this Court when the writ petitioner was different.
6. In view of such, this Court holds that the instant writ petition is quite maintainable.
7. 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. 4/authority to take appropriate action in terms of the representation dated 20.06.2024 as submitted by the writ petitioner with the respondent no. 4/authority, a copy of which has been annexed at Page Nos. 26 and 27 of the instant writ petition.
8. It is submitted by Mr. Chatterjee that it is the specific grievance of the writ petitioner that on account of illegal construction over a government land just in front of the

writ petitioner's property, particulars of which have been mentioned in paragraph no. 3 of the instant writ petition, the writ petitioner is facing difficulty in getting easy access to his property which is why the aforementioned representation was submitted with the respondents/authorities which was not, however, adhered to.

9. It is thus submitted by Mr. Chatterjee that appropriate relief/reliefs may be granted to the writ petitioner in terms of the prayers made in the instant writ petition.
10. Mr. Galib, learned senior advocate appearing on behalf of the respondent/State in his usual fairness submits before this Court that the respondent no. 4/authority may be directed to dispose of the representation dated 20.06.2024 in accordance with law.
11. Such contention is, however, opposed by Mr. Kali by saying that in absence of any material to establish at least *prima facie* that the present private respondents are encroachers of a government land no relief should be granted to the writ petitioner.
12. Considering the entire materials as placed before this Court and after hearing the learned advocates for the contending parties, this Court while disposing the instant writ petition directs the respondent no. 4/authority to consider the representation of the writ petitioner dated 20.06.2024 in accordance with law and after giving due opportunity of hearing to the writ petitioner, private respondents and any other stakeholders, if therebe any, and/or their authorized

representatives shall pass a reasoned order and shall forthwith communicate the same to the writ petitioner and the private respondents preferably by email, if the email detail of the writ petitioners and the private respondents are provided to him at the time of hearing.

13. The entire exercise as indicated in the foregoing paragraphs is to be completed by within 60 working days from the date of communication of the server copy of this order forthwith.
14. The time limits as fixed by this Court are mandatory and peremptory.
15. Liberty is given to the learned advocate on record for the writ petitioner to communicate the server copy of this order to the respondent no. 4/authority forthwith.
16. The respondent no. 4/authority is hereby directed to act on the basis of the server copy of this order.
17. With the aforementioned observations, the instant writ petition being **WPA 24316 of 2024** is disposed of.
18. Before parting with, it is further directed that in the event while passing the reasoned order, the respondent no. 4 finds sufficient merit in the representation of the writ petitioner, he is directed to proceed as per the provision of Sections 3 and 4 of the West Bengal Public Land (Eviction of Unauthorized Occupants) Act, 1962 in accordance with law soon thereafter.
19. It is, however, made clear that since the affidavits have not been called for, the allegations as made in the instant writ petition are deemed to have been denied.

20. 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.)