

06.02.2025

Item No. 22

Crt.No.02

b.r.

WPA 27800 of 2024

Tajauddin Sardar

-vs-

The State of West Bengal & Ors.

Mr. Mainak Bose, Sr. Adv.

Mr. Lakshminath Bhattacharya

.... For the petitioners.

**Mr. Soumitra Bandyopadhyay, Sr. Govt.
Adv.**

Mr. Priyabrata Batabyal

..... for the State-respondents.

Mr. Saunak Bhattacharya

Mr. Chandra Nath Sarkar

Mr. Saunak Mondal

**... for the Resp. nos. 12 to 21,
23,24, 26 to 29.**

Despite there being a direction for filing affidavit dated **December 4, 2024**, the respondents choose not to file any affidavit in opposition. Hence, this Court proceeds for final disposal of this writ petition on the basis of the available materials, as its pendency will not serve any purpose.

Mr. Lakshminath Bhattacharya, learned advocate led by Mr. Mainak Bose, learned Senior advocate appears for the petitioner.

Mr. Priyabrata Batabyal, learned State advocate led by Mr. Soumitra Bandyopadhyay,

learned Senior Government advocate appears for the respondent nos. 1 to 11.

Mr. Saunak Mondal, learned advocate with Mr. Chandra Nath Sarkar, learned advocate appears for the private respondent nos. 12 to 29 except respondent nos. 22 and 25.

The petitioner alleges unauthorized construction upon encroaching a portion of PWD land at the behest of the private respondents, the petitioner has submitted its representation dated **June 9, 2023 at Page-41** to the writ petition.

Learned advocate appearing for the private respondents have denied and disputed the submissions made on behalf of the petitioner and further submits that there has been no encroachment upon PWD land caused by the private respondents. He submits that a partition suit is pending between the petitioner and the private respondents before the jurisdictional Civil Court but PWD or any State authority is not a party thereto.

In view of the above, the respondent no.11 is directed upon a prior notice to the petitioner and the private respondents to cause a physical inspection of the alleged encroachment mentioned in the said representation dated **June 9, 2023** and

not beyond that and to prepare a report and a sketch map, if any, encroachment is found. The respondent no.11 then shall serve copy of the report along with the sketch map to the petitioner, the private respondents and the respondent no.6.

This exercise shall be carried out and completed by the respondent no.11 positively within a period of **six weeks** from the date of communication of this order.

After receiving a copy of the report if the encroachment is confirmed, as alleged in the said representation dated **June 9, 2023 at page-41** to the writ petition, then the **respondent no.6** upon issuing a prior notice of hearing of at least **seven days** to the petitioner and the private respondents after granting them an opportunity of hearing shall decide the issue by passing a reasoned order in accordance with law.

This exercise shall be carried out by the respondent no.6 positively within a period of **six weeks** from the date of receiving the report from the respondent no.11 and the reasoned order shall be communicated to the petitioner and the private respondents positively within a period of **one week** from the date of the said reasoned order is passed.

It is made clear that this Court has not gone into the merits of the allegations and counter allegations of the petitioner and the private respondents 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 **respondent no.6**.

In the event, the reasoned order confirms the encroachment in terms of the said representation dated **June 9, 2023**, then the respondent no.6 shall transmit its reasoned order before the respondent no.4 positively within a period of **two weeks** from the date of the said reasoned order to be passed.

The respondent no.4 then shall take all necessary and consequential steps in accordance with law to give an immediate effect to the said reasoned order by causing necessary demolition of the encroachment in accordance with law but positively within a period of **four weeks** from the date of receiving the reasoned order from the respondent no.6.

In the event, the demolition works are to be carried out and any assistance is sought for by the respondent no.4 from the local police authority, the

local police authority shall render all necessary assistance to the respondent no.4.

It is made clear that this order shall not create any right or equity in favour of the petitioner, if he does not succeed to his claim before the **respondent no.6** strictly in accordance with law.

It is once again made clear that the alleged encroachment has to be assessed in the light of the allegation made in the representation dated **June 9, 2023 at page-41** to the writ petition and not beyond that.

With the above observations and directions, this writ petition, **WPA 27800 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.)