

Court No. 2
03.01.2025
(Item No. 9)

Moumita

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. 29250 of 2024

Sk. Mojamel
VS
The Union of India & Ors.

Mr. Raj Kumar Sain
.... For the petitioner
Mr. Dwijadas Chakraborty
Ms. Tanusree Ghosh
.... For Union of India

Mr. Golam Mastafa
Mr. Tarasankar Samanta
.... For the Respondent Nos. 8 to 15

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

Mr. Raj Kumar Sain, learned advocate appears for the petitioner.

Mr. Dwijadas Chakraborty, learned advocate appears for respondent no. 1.

Mr. Golam Mastafa, learned advocate appears for the private respondent nos. 8 to 15.

The respondent nos. 2 and 3 are not represented, despite notice.

None appears for the state.

The petitioner complains of an alleged encroachment and unauthorized construction on a portion of National Highway land at the behest of the private respondent No. 8 to 15. The petitioner submitted a representation dated **November 11,**

2024, Annexure P-2 at page-27 to the writ petition, but the same has not yet been disposed of.

Learned counsel appearing for the private respondent nos. 8 to 15 submits that the petitioner is not the actual owner of the land in question who claims that his access to the is infringed. Petitioners have not produced any title document save and except the record of right which does not confer any title on the land.

In view of the above, the jurisdictional Block Land and Land Reforms Officer (B.L. & L.R.O) upon issuing a prior notice to the petitioner, private respondents and the respondent No. 3 or a responsible officer to be delegated by the respondent No. 3 shall cause a physical inspection of the alleged encroachment and structure and shall prepare a report with a detailed sketch map and submit the same before the Jurisdictional Project Director, NHAI. Copy of the said report with the sketch map shall also be furnished before the petitioner and private respondent No. 8 to 15.

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.

After receiving the report from the B.L. & L.R.O. the respondent No. 2 upon issuing a prior

hearing notice to the petitioner and the private respondents and after granting them an opportunity of hearing shall dispose of the said representation dated **November 11, 2024, annexure P-2** at **page 27** to the writ petition by passing a reasoned order in accordance with law.

This exercise shall be carried out and completed by the respondent No. 2 positively within a period of **six weeks** from the date of receiving the report from the B.L. & L.R.O. and the reasoned order shall be communicated to the petitioner and the private respondents 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 merit of the rival contentions 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 Project Director, NHAI but the same shall not travel beyond the scope of the said representation dated **November 11, 2024** as referred to above.

In the event, the reasoned order confirms the alleged unauthorized construction and encroachment on the National Highway land and any operation of it, the respondent No. 2 and/or appropriate authorities

shall take all necessary and consequential steps to give an immediate effect to the said reasoned order but positively within a period of **four weeks** from the date of the said reasoned order to be passed.

It is made clear that, this order shall not create any right or equity in favour of the petitioner and in favour of the private respondents, if they do not succeed to their respective claims before the Jurisdictional Project Director, NHAI 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 29250 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.)