

38 02.01.2025
NB Ct. 17

WPA 29853 of 2024

Saheb Das
Vs.
The State of West Bengal & Ors.

Mr. Salil Kumar Maiti,
Ms. Pinki Saha,
Ms. Dolan Samanta.
...for the petitioner.

Mr. Sabyasachi Chatterjee,
Mr. Badrul Karim.
...for the respondent nos.13to20.

Affidavit of service filed on behalf of the petitioner is taken on record.

Learned counsel appearing on behalf of the petitioner submits as follows. The private respondents have encroached upon the public land and made illegal construction thereupon. With such complaint, the petitioner approached the concerned authorities including the SDO for taking appropriate action in terms of the West Bengal Public Land (Eviction of Unauthorised Occupants) Act, 1962. However, the representation dated 14.11.2024 has not been responded to as yet.

Learned counsel appearing on behalf of the respondent nos.13 to 20 vehemently opposes the prayer, denies the allegations and submits that the writ petition is not maintainable in view of the bar contained under Section 15 of the Act of 1962.

The bar contained in Section 15 of the Act of 1962 prevents any individual from filing a suit or proceeding over the same subjectmatter except under the provisions of the 1962

Act. Here, there is no violation of this provision. The petitioner had approached the concerned authority to take action as required under the 1962 Act. But, the statutory authority allegedly did not act on the same. This would clearly entitle an individual to approach this Court for exercise of powers under Article 226 of the Constitution of India.

In view of the above, let the respondent no.3 consider the representation of the petitioner dated 14.11.2024 in accordance with law and upon hearing the concerned parties and as expeditiously as possible, preferably within a period of eight weeks from the date of communication of this order.

It is clarified that the merits of the case have not been gone into.

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

With these observations, the writ petition is disposed of.

Urgent photostat certified copy of this order may be supplied to the parties expeditiously, if applied for.

(Jay Sengupta, J.)