

ML. 22
08.09.2026
Court. No. 12
GB

FMA 57 of 2026
With
CAN 1 of 2026

Chhaya Bhaumik
VS
The State of West Bengal & Ors.

Mr. Asok Kumar Ganguly

...for the Appellant.

*Ms. Susmita Saha Dutta, Ld. AGP.,
Ms. Madhurima Basu*

...for the State.

1. Despite service, none appears on behalf of the respondent nos.8 and 9.
2. Learned Additional Government Pleader with a junior of her choice is engaged in the matter to represent the respondent nos.1 to 7.
3. The appeal is directed against an order dated November 13, 2025, passed in WPA 25039 of 2025. By the order impugned the learned Single Judge dismissed the writ petition, inter alia, holding that the appellant had admitted encroachment over government land, before the District Magistrate (appellate authority). On such admission the order was passed for removal of the encroachment.
4. Under such circumstances, His Lordship was of the view that the plea taken for the first time in the writ petition that, a copy of the report of the Block Land and Land Reforms Officer had not been served upon the appellant, could not be accepted to be a valid ground for setting aside the proceeding initiated by the appropriate authority under the West Bengal Highways Act, 1964 (hereinafter referred to as the 'said Act').

5. Mr. Ganguly, learned advocate for the appellant submits that the orders were passed by the Executive Magistrate as also by the District Magistrate, in violation of the principles of natural justice. He submits that the report of the Block Land and Land Reforms Officer which was relied upon, had not been served upon the appellant.
6. We have considered the submissions and we have perused the records.
7. We find that the proceedings were initiated on the basis of a writ petition filed by the respondent no.8. The respondent no.8 filed WPA 1893 of 2021 alleging that the appellant and one Maya Sahoo had raised constructions over a portion of the PWD road, which was adjacent to her property. Such construction had obstructed her ingress and egress. Although, a representation was made before the concerned authority, those were not considered.
8. The respondent no.8 prayed for a direction upon the authority for consideration of the representation. A learned Single Judge of this Court disposed of the writ petition by directing the concerned authority, namely, the Assistant Engineer, Haldia Highway Sub-Division to consider and dispose of the representation submitted by the respondent no.8, within a period of three months from the date of communication of the order.
9. Pursuant to the said order, a hearing notice was issued to the parties. The appellant filed a representation on February 15, 2023 addressed to the Assistant Engineer, Haldia Highway Sub-Division, inter alia, stating that she had not constructed on the land of the respondent no.8 but, had constructed a gate on government land, only for

protection of her residential house, such portion of the government land was being used by her for ingress and egress to her residential house. She also stated that she was ready to remove the gate, if the same was necessary for public purpose.

10. The contentions of the appellant before the authority were that the gate had not obstructed the ingress and egress of the respondent no.8 and, as such, without any finding of such obstruction and the genuineness of the claim of the respondent no.8, the order of removal of the encroachment could not have been passed.
11. We find that, proceedings under Section 10 of the said Act had been initiated, upon perusal of the application filed by the Assistant Engineer, Haldia Highway Sub-Division PD (Roads) Directorate for an order under Section 10(3) of the said Act. The Executive Magistrate, Haldia being, prima facie, satisfied that encroachment over government land had taken place, had directed proceedings to be drawn up under the said provisions of law and further directed a show cause notice be issued upon the encroachers.
12. It is an admitted position that a hearing was given to the parties. It is also an admitted position that the procedure established by law was followed. Thereafter, the Executive Magistrate, Haldia, upon perusal of the documents and upon hearing the parties as also the Assistant Engineer, Haldia Highway Sub-Division PW (Roads) Directorate, Purba Medinipur declared the appellant as also Maya Sahoo to be unauthorized encroachers in respect of Plot No.98/419 of Mouza – Teropakhya. Thus, the appellant was directed under Section 10(3) of the said Act to remove

unauthorized encroachment caused by them on Plot No.98/419 of Mouza – Teropakhya within a period of sixty days from the date of the order, failing which the Assistant Engineer, Haldia Highway Sub-Division PW (Roads) Directorate was authorized to recover the possession of the land in question by removing the encroachment. The Officer-in-Charge, Mahishadal Police Station was directed to assist.

13. An appeal was preferred by the appellant before the District Magistrate in terms of Section 10(4) of the said Act.
14. From the grounds of appeal we find that the appellant's case was that the encroachment on the land of the respondent no.8 had not been proved. That the obstruction to the ingress and egress of the respondent no.8 had not been decided by the authority. That the appellant was only using a small part of the government land for her ingress and egress to her residential house and the gate was constructed just beyond her raiyati land. The said government land was not required for any public purpose and, as such, the construction of the gate on the said land did not cause any prejudice to anybody. The District Magistrate considered the grounds of appeal and by an order dated September 18, 2025 dismissed the appeal, inter alia, holding that the encroachment of the petitioner over government land, that is, Plot No.98/419 of Mouza – Teropakhya was admitted. The fact that it was not causing any hindrance to anybody was noted. However, as the encroachment was admittedly on a government land, the same was directed to be removed.

15. The appellant does not have any right over the government land. It is not that she was permitted to use a portion of the land by way of any permission or licence. She had admitted before the authority that she has encroached a small portion of the government land. The authority proceeded in accordance with law. There is no allegation that the procedure established by law was not complied with.
16. In such view of the matter and in the absence of any subsisting right of the appellant to continue to occupy government land, we are of the view that the orders do not suffer from any illegality. The learned Single Judge rightly observed that, in view of the admission by the appellant with regard to encroachment, nothing remained to be decided in the writ petition.
17. Accordingly, the appeal and the connected application are dismissed.
18. Parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)

(Arjun Ray Mukherjee, J.)