

01.12.2020  
S/L No.09  
Court No.12  
s.biswas

**WPA 4599 of 2020**

*Alok Ranjan Soren*  
Vs.  
*State of West Bengal & Ors.*

**(Through Video Conference)**

Mrs. Seba Roy  
Mr. Bhaskar Sengupta  
... .. for the petitioners  
Mr. Robiul Islam  
... .. for the State

Affidavit of service filed by the petitioner be kept on record. The present writ petition has been preferred primarily praying for the following relief:

*“(a) A writ of and/or order and/or direction in the nature of mandamus commanding the respondent authorities particularly the respondent nos. 2, 3 and 5 and their men, agents and/or assigns to follow the proper course of law as prescribed under the West Bengal Highways Act, 1964 before removing the structure of the office of the Bhimpur Santi Committee.”*

Mrs. Roy, learned advocate appearing for the petitioner submits that the petitioner is the Secretary of Bhimpur Santi Committee. The private respondents herein approached this Court earlier by a writ petition being W.P. 26095 (W) of 2016 in which the petitioner herein was impleaded. The said writ petition was disposed of by an order dated 24<sup>th</sup> November, 2016 directing the competent

authority to take appropriate steps in terms of the West Bengal Highways Act, 1964 (in short, the said Act) since in the writ petition, it was alleged that the petitioner herein has encroached upon a Government road. In spite of such specific direction, the competent authority under the said Act is acting unreasonably in derogation to the provisions of the said Act. Without approaching the concerned Executive Magistrate, as required under Section 10(2) of the said Act, the respondent no.3 is intending to forcibly oust the petitioner from the concerned land.

The learned advocate for the State respondents submits that he has no instruction.

No one appears today on behalf of the private respondents.

Records reveal that alleging encroachment upon a Government road, a writ petition was preferred impleading the petitioner herein. The same was disposed of on 24<sup>th</sup> November, 2016. About 3 years thereafter, a notice was issued by the Block Land & Land Reforms Officer, Salboni, Paschim Medinipur, scheduling an enquiry on 1<sup>st</sup> November, 2019. Thereafter a notice dated 29<sup>th</sup> November, 2019 was issued by the respondent no.3 asking the petitioner to remove the construction from the concerned land and to hand over the possession. Alleging non-compliance of the order passed in the earlier writ petition on 24<sup>th</sup> November, 2016, a contempt application was also preferred. The same was disposed of on 20<sup>th</sup> December,

2019 with a direction upon the Executive Engineer, Midnapore Highway Division, to initiate proceeding and to conclude the same preferably within a period of 3 months from the date of service of notice on the parties.

The argument of Mrs. Roy that the respondents are acting in derogation to the provisions of Section 10 of the Act, is not acceptable to this Court since it appears that an enquiry has been conducted on 1<sup>st</sup> November, 2019 and thereafter a notice has also been issued on 29<sup>th</sup> November, 2019 in consonance with the provisions of the said Act.

In the said conspectus, this Court is reluctant to exercise any discretion in favour of the petitioner and the writ petition is, accordingly, dismissed.

There shall be no order as to costs.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties on completion of all necessary formalities.

**(Tapabrata Chakraborty, J.)**