

07.07.2021

Ct. No.13
Sl. No.106
pk/akd

W.P.A. 10985 of 2021 [via video conference]

[Sukumar Barik & Ors. -Vs- The State of West Bengal & Ors.]

Mr. Ayan Mitra
Mr. Arka Bhattacharyya
... .. for the petitioners

Mr. Samrat Sen
... .. for the State

Learned counsel for the petitioners submits that they had originally encroached a portion of the land of the PWD and had removed such encroachment. However, by Notice dated 12th February, 2021, the Assistant Engineer, PWD, Tamluk Sub-Division has issued notice to the petitioners under Section 10 of the West Bengal Highways Act, 1964 read with the provisions of Public Premises (Eviction of Unauthorised Occupants) Act to remove further illegal construction.

It is submitted that the Assistant Engineer, PWD, Tamluk Sub-Division has no authority under the Highways Act to issue such notice.

Learned counsel appearing for the State opposes the application and submits that the procedure conceived under Section 10 is that, first a show-cause is issued and the second and third stage are before the Executive Magistrate and before the District Magistrate respectively. The proceedings against the petitioner are strictly in accordance with 1964 Act.

This Court even otherwise does not see any serious prejudice having been caused to the petitioners. The PWD shall expeditiously proceed with the notice dated 9th June, 2021 and

take further steps in that regard. The writ petitioners may avail remedies provided under the Statute.

In that view of the matter, no interference is called for under Article 226 of the Constitution of India.

The writ petition shall stand dismissed.

There will be no order as to costs.

All parties are to act on a server copy of this order duly downloaded from the official website of this court.

(Rajasekhar Mantha, J.)