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15-02-2021

(Through Video Conference)

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WPA 22242 of 2019

Ct. 38

Sukdev Bera
Versus
The State of West Bengal & Ors.

Mr. Tushar Sinha Mahapatra, Adv.
Ms. Durba Banerjee, Adv.
...for the petitioner

Mr. Supriyo Chattopadhyay, Adv.
Ms. Saswati Adhikary, Adv.
...for Haldia Municipality

Mr. Susovan Sengupta, Adv.
Mr. Manas Kumar Sadhu, Adv.
...for the State

From the report of the Special Officer it is abundantly clear that the respondent no.8 has encroached upon the concerned highway which is maintained by PWD of the State of West Bengal. The respondent no.8 has constructed a two-storeyed public toilet at the location in question.

Learned Advocate for the respondent no.8 submits that there already existed a public toilet at that place, the respondent no.8 has only made a new construction at the same place after demolishing the old structure. He further submits that several meetings were held between the respondent no.8 and the PWD as also the concerned District Magistrate wherein resolutions were adopted in principle permitting the respondent no.8 to construct the public toilet but unfortunately no formal permission was granted.

It further appears from the Special Officer's report that by reason of the impugned construction, the ingress to and egress from the petitioner's property has been substantially obstructed.

Since encroachment has been made on State highway which is maintained by the PWD of the State of West Bengal, the provisions of the West Bengal Highways Act, 1964 will apply. The respondent no.3, being the Executive Engineer, Tamluk Highway Division, Public Works Department (Road), Government of West Bengal, is directed to initiate proceedings under Section 10(1) of the 1964 Act for removal of the impugned encroachment.

Needless to say, the procedure contemplated in Section 10 of the Act will be scrupulously adhered to and the respondent no.8 shall be granted full opportunity of hearing before any adverse action is taken with regard to the impugned construction.

Let the entire exercise be completed within a period of four months from the date of receipt of a copy of this order along with a copy of the writ petition by the respondent no.3.

Since no affidavit has been called for, the allegations contained in the writ petition shall be deemed not to be admitted by the respondents.

WPA 22242 of 2019 is accordingly disposed of.

There will be no order as to costs.

(Arijit Banerjee, J.)