

52
jdt.

29.03.2022
jb.

W.P.A. 2332 of 2022
(Kartick Bera & Anr. vs. State of West Bengal & Ors.)

S. Hossain
Mr. Ram Krishna Chandra
.... For the Petitioners

Mr. Chandi Charan De
Mr. Anirban Sarkar
.... For the State

Mr. Raj Kr. Sain
.... For the Private Respondent

Affidavit-of-service filed by the
petitioners is taken on record.

It is submitted on behalf of the
petitioners that a notice under Section 10(1)
of the West Bengal Highways Act, 1964 has been
issued upon them holding them as unauthorised
encroachers over Government land and directing
them to clear such structures/obstructions on
the said land.

It is submitted on behalf of the
petitioners that they were deprived of an

opportunity of hearing before the concerned Authority prior to issuance of such notice.

It is submitted on behalf of the private respondent that as notice under Section 10(1) of the Act of 1964 has been issued, the petitioners have an alternative efficacious remedy before the competent authority and this Court cannot entertain the prayer of the petitioners in exercising jurisdiction under Article 226 of the Constitution.

Learned counsel appearing for the State respondents submits that the concerned Authority may be directed to proceed with the hearing of the matter under Section 10 of the Act of 1964 after giving reasonable opportunity of hearing to all the interested parties including the petitioners.

In view of the fact that the proceeding under Section 10 of the Act of 1964 has already been initiated, the respondent Authorities are directed to take the proceeding to its logical conclusion within three months from the date of communication of this order. In dealing with the matter, the concerned Authority being the 5th respondent

herein shall give reasonable opportunity of hearing to all the interested parties including the petitioners and the private respondent and dispose of the matter within the stipulated time frame, in accordance with law.

With the aforesaid directions, W.P.A. 2332 of 2022 is disposed of.

There shall be no order as to costs.

Since no affidavit has been invited, allegations contained in the writ petition shall be deemed not to have been admitted.

Urgent certified website copy of the order, if applied for, be given to the parties on compliance of requisite formalities.

(Suvra Ghosh, J.)