

WPA 8751 of 2022

Krishna Agarwala & anr.
Vs.
The State of West Bengal & Ors.

Mr. Srijib Chakraborty,
Mr. Pankaj Agarwal,
Ms. Pallavi Ray,

...for the petitioners.

Mr. Chandi Charan De,
Mr. Soumitra Bandyopadhyay,

...for the State.

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

None appears for the private respondents despite service.

The petitioners are aggrieved by an order passed by the Sub-Divisional Officer, Tehatta, Nadia on 21st March, 2022.

Pursuant to an order passed by a coordinate Bench of this Court on 28th January, 2015 in WP 33353 (W) of 2015 an inspection of the concerned plot was held by the concerned Assistant Engineer and it was found that the private respondents encroached on PWD land by erecting illegal structures therein. Notice under Section 10(1) of the West Bengal Highways Act, 1964 was issued upon the alleged encroachers but to no effect. In the order impugned dated 21st March, 2022, the Sub-Divisional Officer, Tehatta has granted an order of status

quo on the land in question. The said order is reproduced below:

“The petitioner and opposite party both were present. Perused the report of the Executive Engineer, PWD (Nadia Division) and the report of the Inspector-in-Charge, Karimpur P.S.

As per the report of the Assistant Engineer, PWD Plassey Sub-Division and Block Land & Land Reforms Officer, Karimpur-1 Block –
1). There is approx 10 feet wide road used by the petitioner as pathway and there is no problem faced by the petitioner to access the main road.

2). There is no problem in playing of vehicles.

3). There are innumerable no. of encroachers having their small size commercial set up in near vicinity of the sit so it will be unjustified to dismantle only there construction and it will create resentment among the other encroachers.

As per report of the Inspector-in-Charge, Karimpur P.S. there is every possibility of breach of peace if any dismantling takes place.

So the case is disposed of with an instruction to maintain station quo on the said land and no further encroachment permanent or otherwise will be made by anybody.

Let the copy of the Order be communicated to all concerned.”

This Court is not only surprised but shocked to peruse such an order passed by a responsible district authority. The Sub-Divisional Officer, in the said order, has chosen to observe that in view of the fact there are several encroachers having their commercial set ups in the plot in question it will be unjustified to dismantle the construction of the respondents herein as it would create resentment among the other encroachers. Such observation is unknown to law.

The order is required to be set aside.

In view of the same, the order dated 21st March, 2022 passed by the Sub-Divisional Officer, Tehatta, Nadia is set aside/quashed.

As it has been held that the PWD land has been encroached upon by the private respondents and proceeding under Section 10 of the Act of 1964 has been initiated, the Sub-Divisional Officer, Tehatta being the 6th respondent herein, is directed to complete the proceeding within two months from the date of communication of this order, in accordance with law, after giving reasonable opportunity of hearing to the petitioners and the private respondents.

With the aforesaid observations and directions, WPA 8751 of 2022 is disposed of. There shall however, be no order as to costs.

Since no affidavit is invited, the allegations contained in the petition are deemed not to be admitted.

Urgent certified website copy of this order, if applied for, be furnished to the parties upon compliance of necessary formalities.

(Suvra Ghosh, J.)