

26.08.2022
rc/ct.no.10
Item No.15

WPA No. 16187 of 2022

Mr. Susmita Saha Dutta
Mr. Niladri Saha ...for the petitioner

Mr. Sirsanya Bandopadhyay
Mr. Arka Kumar Nag ..for the State

Mr. Somnath Ghosh
Mr. Rameshwar Sinha
...for the respondents no. 7 to 12

Heard learned counsels appearing on behalf of the parties.

The petitioner approached this Court against a notice issued upon him under Section 10(1) of the West Bengal Highways Act, 1964 (hereinafter referred to as “the Act”).

Learned counsel appearing on behalf of the petitioner submits that no opportunity of hearing was granted to the petitioner prior to issuance of such notice.

Section 10 of the Act envisages that pursuant to notice under Section 10(1) of the Act if the alleged unauthorised construction is not removed by the encroachers, the matter shall be dealt with by the concerned authority under Section 10(3) of the Act upon granting reasonable opportunity of hearing to all the interested parties. The petitioner has come up before this Court in the present writ petition without waiting such notice to be served upon him.

In view of the same this Court is inclined to hold that since the petitioner can take recourse to Section 10(4) of the Act in the event he is aggrieved by the order passed under Section 10(3) of the Act the writ petition is premature and should be dismissed.

In view of the above, the writ petition being WPA No. 16187 of 2022 is dismissed as premature.

There shall be, however, no order as to costs.

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

(Suvra Ghosh,J)