

04.11.2022
rc/ct.no.10
Item No.33

WPA No. 19868 of 2022

Mr. Soumyajit Mukherjee ...for the petitioner

Mr. Partha Pratim Roy
Mr. Ram Chandra Guchait ...for the State

Mr. Krishna Deo Das
Mrs. Pampa Dey Dhabal...for the private respondent

Affidavit of service filed in Court today is taken on record.

The petitioner has contended that her husband, since deceased, was the recorded owner of the plot in question which is adjacent to the Akui School More to Akui Union High School link road, being the link road of Bardhaman to Bowaichandi Road owned by the Public Works Department (Roads). The petitioner complains that the private respondent has raised a pucca shop room by encroaching upon a portion of the said road, thereby causing obstruction to the ingress and egress of the petitioner to/from her property. A writ petition was filed by the husband of the petitioner in this regard and by an order passed on 23.12.2011 in W.P.No. 21999(W) of 2011 a coordinate Bench of this Court granted liberty to the petitioner therein to submit a proper complaint under Section 10 of the West Bengal Highways Act, 1964 and with a direction upon the Highway authority to take steps in accordance with law as expeditiously as possible in

terms of the said complaint. Several approaches made by the petitioner's husband in compliance with the said order of the Court fell on deaf ears. The petitioner's husband unfortunately expired on 23.02.2022 leaving behind the petitioner as his sole heir. The petitioner submitted a similar representation before the concerned authority through her learned advocate on 03.08.2022 which was sent to the Executive Engineer, Bardhaman South Highway Division by the Executive Engineer, Assansol Highway Division on 17.08.2022.

The petitioner prays for a direction upon the authority to initiate proceedings under Section 10 of the Act of 1964 (hereinafter referred to as "the Act of 1964") in terms of the earlier order of this Court as well as the representation submitted on behalf of the petitioner.

It is submitted on behalf of the private respondent that the private respondent has been running business in the plot in question for 30 years and has not encroached upon any portion of the Government land.

Learned counsel for the State-respondents submits that the 4th respondent be directed to consider the representation in accordance with law.

In view of the above, this Court is inclined to hold that since the representation submitted on behalf of the petitioner has been forwarded to the 4th respondent vide letter dated 17.08.2022, the 4th respondent be directed to consider and dispose of the representation and take

necessary steps, if required, under Section 10 of the Act of 1964 and take the proceedings to its logical conclusion within three months from the date of communication of this order upon giving reasonable opportunity of hearing to all the affected parties including the petitioner and the private respondent, in accordance with law.

With the above observations and directions this writ petition is disposed of.

There shall be, however, 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)