

01.09.2022
jb.

W.P.A. 20054 of 2022
(Himangsu Sekhar Metia & Anr. vs. State of West Bengal & Ors.)

Ms. Rama Halder
.... For the Petitioners

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

Heard learned counsels for the parties.

Learned counsel for the petitioners have assailed the order passed by the District Magistrate, Purba Medinipur under Section 10(4) of the West Bengal Highways Act, 1964 on 20th July, 2022 and have submitted that the petitioners have their raiyati land in Dag No. 3 of Mouza Nununda, Police Station Bhagwanpur and have not encroached upon any portion of the Government land. Learned counsel further submits that the enquiry held by the Block Land and Land Reforms Officer prior to the issuance of notice under Section 10(1) of the Act of 1964 was not in presence of the petitioners and, therefore, such enquiry is disputed by the petitioners.

Learned counsel for the State respondents, in his usual fairness, submits that the order impugned dated

20th July, 2022 is not supported by any reason and also the learned District Magistrate in the said order has reopened the case by directing re-enquiry of the land in question to find out more encroachment and submission of report to the Sub-Divisional Magistrate, Egra Sub-Division. Pursuant to the said order, notice under Section 10(1) of the Act of 1964 has also been issued upon the alleged encroachers including the first petitioner on 23rd August, 2022. Learned counsel submits that since the proceeding under Section 10 of the Act of 1964 has been initiated afresh, the concerned authority being the third respondent herein be directed to conclude the proceedings in accordance with law.

In view of the same, this Court is inclined to hold that firstly the order impugned passed on 20th July, 2022 by the District Magistrate, Purba Medinipur is bereft of any reasoning whatsoever. Secondly, the District Magistrate, has reopened the case by directing re-enquiry of the land in question to assess alleged encroachment. Notice under Section 10(4) of the Act of 1964 has also been issued upon the alleged encroachers.

Pursuant to the said order since the proceeding under Section 10 of the Act of 1964 has been initiated afresh, the Sub-Divisional Officer, being the 3rd respondent herein, is directed to bring the said proceeding to its logical conclusion within three months

from date after giving reasonable opportunity of hearing to all the interested parties, including the petitioners, in accordance with law.

Due to the aforesaid reasons, the order impugned passed on 20th July, 2022 is set aside.

W.P.A. 20054 of 2022 is thus 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.)