

February 24, 2023

ARDR
(28)

WPA 3595 of 2023

Smt. Janaki Jana

Vs.

The State of West Bengal & ors.

Adv. Debasish Das,

...for the petitioner.

Adv. Santanu Mitra,

Adv. Rama Halder,

...for the State.

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

None appears for the respondent no.16 despite service.

It is submitted on behalf of the petitioner that the petitioner is the recorded owner of the plot in question and has constructed a residential house therein. Notice was issued upon the petitioner under Section 10(1) of the West Bengal Highways Act, 1964 for removal of unauthorised construction from the PWD land following which notices under Sections 10(2) and 10(3) of the Act were issued. The petitioner filed an appeal before the District Magistrate, Purba Medinipur under Section 10(4) of the Act of 1964, which is pending. During pendency of the appeal, notice has been issued upon the petitioner directing her to remove the unauthorised construction over the PWD land within seven days from the date of issuance thereof. The petitioner prays for an order

restraining the respondent from giving effect to such notice till the appeal is disposed of.

Learned counsel for the State respondents submits a report in this regard which demonstrates that pursuant to an order passed by a coordinate Bench of this Court on 4th August, 2022 in WPA 11552 of 2015 demarcation of the plot in question was held and upon observing unauthorised construction by the petitioner on PWD land, proceeding under Section 10 of the West Bengal Highways Act, 1964 was initiated and completed.

Since the appeal filed by the petitioner under Section 10(4) of the Act of 1964 is pending, the concerned authority, being the 14th respondent herein, be directed to take the proceeding to its logical conclusion within one month from the date of communication of this order upon affording reasonable opportunity of hearing to all the interested persons including the petitioner, in accordance with law.

The notice issued by the Assistant Engineer, PWD, Contai Sub-Division on 31st January, 2023 shall remain stayed till seven days after the disposal of the appeal under Section 10(4) of the Act of 1964.

With the aforesaid directions, WPA 3595 of 2023 is disposed of.

However, there shall 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 supplied to the parties upon compliance with all requisite formalities.

(Suvra Ghosh, J.)