

WPA 3996 of 2023

Abdul Motaleb Gazi
Vs.
The State of West Bengal & Ors.

Adv. Aniruddha Tewari,
...for the petitioner.
Adv. Soumitra Bandyopadhyay,
Adv. Priyabrata Batabyal,
...for the State.

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

Service upon the private respondent has returned with the postal endorsement “refused” which amounts to good service.

Heard learned counsels for the parties.

The petitioner claims to be the recorded owner of the plot in question and submits that the private respondent has raised unauthorised construction by encroaching a portion of PWD road adjoining the petitioner’s property, thereby obstructing his egress and ingress. The petitioner submitted a representation in this regard before the concerned authority on 15th September, 2022 pursuant to which the Executive Engineer-II (PWD) Barasat Division, by a letter issued on 27th September, 2022, instructed the Assistant Engineer (PWD) Barsirhat Sub-Division to conduct an enquiry with the help of the concerned Block Land & Land Reforms Officer and in the event of detection

of encroachment as alleged, take necessary steps accordingly.

Learned counsel submits that no step has been taken by the Assistant Engineer despite such communication.

It is submitted on behalf of the State respondents that the Assistant Engineer, being the 4th respondent herein, be directed to initiate proceedings under Section 10 of the West Bengal Highways Act, 1964 in accordance with law.

In view of the above, this Court is inclined to hold that since the 4th respondent has been directed to take necessary steps for removal of the alleged encroachment upon PWD road in accordance with law, the said respondent be directed to ascertain the said alleged encroachment and in the event such encroachment is found, initiate appropriate proceedings under Section 10 of the West Bengal Highways Act, 1964 and take the proceedings to its logical conclusion within three months from the date of initiation thereof upon affording reasonable opportunity of hearing to all the interested persons including the petitioner and the private respondent, in accordance with law.

With the above directions, WPA 3996 of 2023 is disposed of.

There shall however, be no order as to costs.

Since no affidavit in opposition 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 on usual undertakings.

(Suvra Ghosh, J.)