

December 13, 2023
(16) ARDR

WPA 6082 of 2023

Raja Bose @ Basu & ors.
Vs.
The Union of India & Ors.

Adv. Prasenjit Mukherjee,
Adv. Ardhya Kamal Das,
...for the petitioners.
Adv. Pradip Kumar Das,
...for the Railways.
Adv. Mekhla Sinha,
Adv. Malabika Roy Dey,
...for the Howrah Zilla Parishad.
Mr. Pratap Basu,
... private respondent no.13 (in person).
Adv. Chandi Charan De,
Adv. Anirban Sarkar,
...for the State.

It is submitted on behalf of both the parties that a Public Interest Litigation being WPA (P) no. 89 of 2023 has been decided by the Bench presided over by the Hon'ble The Chief Justice by an order passed on 9th October, 2023. The relevant portion of the order is set out hereinbelow:

- “5. Therefore, we direct the 4th respondent namely, the Divisional Manager, South Eastern Railway, Kharagpur, Paschim Medinipur District to inquire into the matter by himself or any other officer, who is empowered to deal with the matter and issue notice to the private respondents, call for the necessary documents and examine the same and if it is found that there is any encroachment of the railway land or the land, which was subject-matter of acquisition, appropriate action be taken in accordance with law.
6. If the encroachment is directed to be removed under the provisions of the Railways Act, action can be

initiated. However, if the same has to be done by the State authorities, necessary orders be passed in this regard and communicated to the appropriate authority of the State Government

7. *The learned advocate appearing for the private respondents would submit that his clients have applied for conversion of the property and after obtaining appropriate approvals, construction had been put up.*
8. *This aspect of the matter shall also be examined by the Divisional Railway Manager or such other authority as the Divisional Railway Manager may nominate. Since assistance of the revenue authorities may be required, the Divisional Railway Manager can seek necessary assistance from the District Magistrate, Howrah, who shall nominate the appropriate officers of the revenue department to assist in the process of inquiry and for demarcation and identification of the property in question.*
9. *The above directions be complied with within a period of eight weeks from the date of receipt of server copy of this order.”*

The present petitioners contested the public interest litigation and made their submission before the Hon’ble Bench.

In the present writ petition, the petitioners have assailed the notices dated 29th October, 2022 and 22nd December, 2022 issued by the South Eastern Railway and the Howrah Zilla Parishad respectively directing them to stop work in the premises in question.

The directions given in the Public Interest Litigation squarely covers the subject matter of the present writ petition.

In view of the said directions, nothing further remains to be adjudicated in the present writ petition and the same is accordingly disposed of.

There shall however, be no order as to costs.

Urgent certified website copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Suvra Ghosh, J.)