

21.06.2023  
rc/ct.no.10  
Item No.15

**WPA No. 6295 of 2023**  
**Partha Chakraborty**  
**Versus**  
**The State of West Bengal & Ors.**

Mr. Amlan Kumar Mukherjee ...for the petitioner

Mr. Rajarshi Basu  
Mr. K.M.Hossain ...for the State

Mrs. Manika Roy ...for the NHAI

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

None appears for the private respondent despite service.

The petitioner claims to be recorded owner of the plot in question and complains that the private respondent has raised unauthorised construction by encroaching upon a portion of the PWD land adjoining his plot, thereby obstructing his ingress and egress. The petitioner submitted a representation in this regard before the concerned authority on 11<sup>th</sup> June, 2015 pursuant to which a notice was issued by the Assistant Engineer, Serampore Sub-Division, Public Works Department upon the private respondent on June 12, 2015 directing removal of the illegal construction on the PWD road.

Learned counsel for the petitioner submits that the private respondent has vacated the road in question pursuant to the notice issued by the Assistant Engineer

but the construction of the road still remains. Subsequently a letter has been issued by the Assistant Engineer to the Block Land and Land Reforms Officer, Serampore, Uttarpara Block, Hooghly on November 16, 2022 requesting demarcation of the land in question. Such demarcation is yet to be done.

Learned counsel for the petitioner prays for a direction upon the concerned authority to conclude the entire proceeding and remove the unauthorised encroachment on PWD road at the earliest.

It is submitted on behalf of the State-respondents that in the event unauthorised encroachment is detected upon demarcation of the plot, necessary steps shall be taken by the 4<sup>th</sup> respondent in accordance with law.

It is submitted by the National Highway Authority of India (in short, “NHAI”) that since the land in question is under control and supervision of the State-respondents, the NHAI has no role to play in the present writ petition.

In view of the above, this Court is inclined to hold that since demarcation of the land in question is sought to be initiated by the concerned authority, in the event encroachment upon PWD land or any portion thereof is detected, the 4<sup>th</sup> respondent is directed to initiate proceeding under Section 10 of the West Bengal Highways Act, 1964 and take the proceeding to its logical conclusion within three months from the date of communication of this order, 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 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)**