

23
14.06.2023
Ct. No.10
b.das

WPA 7845 of 2023

Jagadish Chandra Biswas

Vs.

The State of West Bengal & Ors.

Mr. Timir Baran Saha ...for the petitioner.

Mr. Sourav Choudhury
Ms. Sukla Das Chandra ...for the State.

Ms. Rupsa Sreemani ...for the respondent No.7.

Written instructions submitted on behalf of the State respondents is taken on record.

Heard learned counsels for the parties.

The order passed by Sub-Divisional Magistrate, Tehatta, Nadia on 10th March, 2022 is assailed in the writ petition.

Pursuant to a representation made by the petitioner alleging illegal encroachment on PWD road, demarcation of the plot in question was made by the Block Land and Land Reforms Officer, Tehatta-I and upon detection of illegal encroachment therein, notice under Section 10(1) of the West Bengal Highways Act, 1964 was issued by the Assistant Engineer, PWD, Krishnagar Sub-Division on 13th July, 2022.

Since the alleged encroachment was not removed by the private respondent despite receipt of notice, the Assistant Engineer communicated the same to the Sub-

Divisional Magistrate, Tehatta, Nadia, who in turn conducted a hearing under Section 10(3) of the Act of 1964.

In the impugned order, Sub-Divisional Magistrate, Tehatta, Nadia has recorded as hereunder:

“Heard the views of Assistant Engineer, PWD and B.L. & LRO, Tehatta-I. It is evident from their reports and the encroachment is not causing much hindrance to the commuters. Moreover there are great number of such encroachment by the side of the road maintained by the PWD so removal of any single encroachment will only create unnecessary agitation amongst the other encroachers. This may also result in deterioration of the law and order in the otherwise peaceful area.

Considering all the aspects of the matter the case is disposed with an instruction to maintain status quo in the area.”

In other words, the Sub-Divisional Magistrate, Tehatta, Nadia has not only admitted the alleged encroachment on the PWD road but has also supported/inspired the same by the impugned order. Such order, in the considered view of this Court, is unknown to law and in all probability has been made on extraneous consideration.

In view of the above, the order impugned passed by the Sub-Divisional Magistrate, Tehatta, Nadia on 10th March, 2022 is set aside.

The Sub-Divisional Magistrate, Tehatta, Nadia, being the 3rd respondent herein, is directed to conclude the hearing under Section 10(3) of the West Bengal Highways Act, 1964 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 and the private respondent, in accordance with law.

The decision taken by the said respondent shall be communicated to the petitioner within a week thereof.

With the above observations and directions this writ petition being WPA 7845 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.)