

June 16, 2023
(22) ARDR

WPA 9230 of 2023

Naharul Haque & ors.
Vs.
The State of West Bengal & Ors.

Adv. Prosenjit Mukherjee,
Adv. Rajasree Basu,
Adv. Saptarshi Chakraborty,
...for the petitioners.
Adv. Goutam Banerjee,
...for the pvt. respondent no.12.
Adv. Asit Kumar De,
...for the pvt. respondent no.10.
Adv. Ananda Dulal Sarkar,
...for the State.

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

None appears for the respondent nos. 11 and 13, despite service.

It is contended on behalf of the petitioners that the predecessor-in-interest of the petitioners acquired the plot in question which was initially agricultural land and was converted subsequently. The petitioners raised a residential building in the said plot after conversion and have been residing therein. The petitioners allege that the private respondents have raised unauthorised construction of shop rooms by encroaching upon a portion of the PWD land adjoining their property, thereby obstructing their egress and ingress completely. An application made by the petitioners in this regard before the Pradhan, Rajhati-II Gram Panchayat on 6th February, 2014 was forwarded by

the Pradhan to the Officer-in-Charge, Khanakul Police Station, Hooghly with an endorsement that the allegation made by the petitioners is true. The 3rd petitioner filed an application under Section 144 of the Code of Criminal Procedure wherein by an order passed on 2nd March, 2023, the Executive Magistrate, Arambagh, Hooghly, directed the Officer-in-Charge, Khanakul Police Station to enquire into the matter and send a report to the authority on the adjourned date. Learned counsel for the petitioners hands up a copy of the report submitted by the Sub-Inspector of Police, Khanakul Police Station on 3rd May, 2023 which states the passage adjoining the petitioners' property is fully occupied by the O.P. members (private respondents herein).

The complaint made by the 3rd respondent in this regard was forwarded by the Sub-Divisional Officer, Arambagh, Hooghly, by a letter issued on 17th March, 2023 to the Sub-Divisional Police Officer, Arambagh the Assistant Engineer, P.W.D. Hooghly Constructon Sub-Division-II and the Block Land & Land Reforms Officer, Khanakul - II. On receipt of the said letter, the Assistant Engineer, PWD, by a letter issued on 14th March, 2023, requested the Block Land & Land Reforms Officer, Khanakul-II, Hooghly to arrange for a joint demarcation of the disputed plot and submit a sketch map in order to determine the extent of encroachment as alleged.

Learned counsel for the petitioners submits that no further step has been taken by the concerned authority till date. Learned counsel seeks a direction upon the 3rd respondent to initiate proceeding under Section 10 of the West Bengal Highways Act, 1964, if necessary, and conclude the said proceeding within a stipulated time frame.

It is submitted on behalf of the private respondents that the private respondents may be given an opportunity of hearing by the concerned authority at the relevant time.

Learned counsel for the State respondents submits that the 3rd respondent be directed to take necessary steps in accordance with law.

In view of the above, this Court is inclined to hold that in the event encroachment upon PWD land or any portion thereof is found upon demarcation, the 3rd 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 petitioners and the private respondents, in accordance with law.

With the aforesaid directions, WPA 9230 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.)