

June 16, 2023
(23) ARDR

WPA 9390 of 2023

Khalil Molla
Vs.
The State of West Bengal & Ors.

Adv. Md. Yusul Ali,
Adv. Sipra Majumder,
Adv. Prativa Ghatak,
...for the petitioner.
...for the State.

Report submitted by the State respondents is taken on record.

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

None appears for the private respondents, despite service.

The petitioner claims to be the recorded owner of the plot in question and submits that the private respondents have raised unauthorised construction by encroaching upon a portion of PWD land adjoining his property, thereby obstructing his egress and ingress. The petitioner submitted a representation in this regard before the concerned authority on 21st February, 2023 which is yet to be considered. The petitioner prays for a direction upon the authority to consider the representation at the earliest.

The report submitted on behalf of the State respondents demonstrates that pursuant to the representation submitted by the petitioner, the Assistant Engineer , Basirhat Highway Sub-Division, PW (Roads)

Directorate, by a letter issued on 28th February, 2023 to the Block Land & Land Reforms Officer, Haroa, North 24 Parganas requested demarcation of the disputed PWD land. No report of the demarcation has been received by the Assistant Engineer till date.

In the premises, this Court is inclined to hold that since demarcation of the disputed plot in question is in progress, in the event encroachment upon the PWD land or any portion thereof is found upon demarcation, the Assistant Engineer 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 respondents, in accordance with law.

With the aforesaid directions, WPA 9390 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.)