

WPA 25973 of 2023

Mustak Ahmed Sk.
Vs.
The State of West Bengal & ors.

Adv. Atarup Banerjee,
Adv. Shibasish Banerjee,
Adv. Rajdeep Pramanik,
...for the petitioner.
Adv. Arindam Chattopadhyay,
Adv. Lipika Chatterjee,
...for the State.

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

Heard learned counsels for the parties.

The writ petitioner seeks a writ in the nature of mandamus commanding the 2nd respondent from giving effect to the order dated 31st October, 2023 on the ground that no proper demarcation of the allegedly encroached plot was made by the Block Land & Land Reforms Officer and the order impugned was passed without taking into consideration the said fact.

Learned counsel produces a copy of the order passed by the Assistant Engineer, Kalna Sub-Division, PWD dated 21st November, 2023 requesting the Sub-Divisional Police Officer, Kalna to deploy necessary police personnel on 29th October, 2023 for implementation of the order impugned.

It transpires from the orders under Section 10(3) as well as 10 (4) of the West Bengal Highways Act, 1964 that both the orders were passed upon hearing the petitioner. The order under Section 10(3) records as follows:

“According to land acquisition map dated 6th April, 1973, the land acquired forty three (43) feet both side from the centre line of the Kusumgram Samaspur road which belongs to PWD and on it an unauthorised structure is built in front of plot no. 1512, Khatian no.1716, J.L. No. 68, Mouza – Ibrambad at Sonadanga”.

It is crystal clear from the order that the allegedly encroached plot has been demarcated by the Block Land & Land Reforms Officer in ascertaining encroachment of the plot and the portion encroached. Order under Section 10(4) of the Act has dealt with the submission made by the petitioner and the Additional District Magistrate (General), Purba Burdwan has passed a speaking and reasoned order upon considering the submission made on behalf of the parties.

Proceeding under Section 10 of the West Bengal Highways Act, 1964 was initiated pursuant to an order passed by this Court on 3rd February, 2022 in WPA 17992 of 2021. There is no illegality and irregularity in the said proceeding which warrants interference by this Court. Since an order of demolition has been passed pursuant to the order under Section 10(4) of the Act, the concerned authority, being the 6th respondent herein, is directed to comply with/implement the said order on 29th November, 2023 as has already been fixed.

The writ petition, being devoid of any merit, is dismissed.

There shall however, 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 furnished to the parties on usual undertakings.

(Suvra Ghosh, J.)