

WPA 28326 of 2022

Goutam Mondal
Vs.
The State of West Bengal & Ors.

Adv. Timir Baran Saha,
...for the petitioner.
Adv. Ansar Mondal,
Adv. Srilekha Bhattacharya,
...for the State.

Statement of facts submitted on behalf of the State respondents is taken on record.

Heard learned counsels for the parties.

The order impugned passed by the Sub-Divisional Magistrate and Sub-Divisional Officer, Tehatta, Nadia on 20th April, 2022 is assailed in the writ petition.

It has been ascertained by the Assistant Engineer, Plassey Sub-Division in the report in the form of affidavit submitted in an earlier writ petition being WP No.19786 (W) of 2017 that Tarun Sangha Club being the 7th respondent herein has raised construction in front of the petitioner's house for which notice under Section 10(1) of the West Bengal Highways Act, 1964 was issued upon the said club requesting removal of the pucca construction and restoration of the land to its original condition within fifteen days from the date of issuance of the notice. It is strange to note in the order passed on 20th April, 2023 the Sub-Divisional Officer has given a go-bye to the said observation made by the Assistant Engineer and has

recorded that no encroachment is found that can hamper the egress and ingress of the petitioner except a bamboo boundary beside the path.

Section 10 of the Act of 1964 deals with unauthorised construction/encroachment upon public land and it is immaterial as to whether the egress and ingress of the petitioner has been obstructed by such encroachment. Since encroachment upon public land by the private respondent has been detected by the Assistant Engineer and proceeding under Section 10 of the Act of 1964 has already been initiated against the said respondent, the competent authority be directed to take the proceeding to its logical conclusion within a stipulated time frame.

Accordingly, the order impugned passed on 20th April, 2022 is set aside.

The Sub-Divisional Officer, being the 3rd respondent herein, is directed to reconsider the observation of the Assistant Engineer and take the proceeding under Section 10 of the Act of 1964 to its logical conclusion within two 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.

Since no affidavit is invited, the allegations contained in the petition are deemed not to be admitted.

There shall however, be no order as to costs.

Urgent certified website copy of this order, if applied for, be furnished to the parties upon compliance of necessary formalities.

(Suvra Ghosh, J.)