

09.04.2024
rc/ct.no.10
Item No.730

WPA No. 179 of 2024
Keshab Chandra Das & Anr.
Versus
The State of West Bengal & Anr.

Mr. Kartick Kumar Bhattacharya
Mr. Subhas Chandra Datta
Mrs. Soumashree Dutta ...for the petitioners

Mr. Supratim Dhar
Mr. Amritlal Chatterjee ...for the State

Mr. Golam Mastafa
Mr. T.S.Samanta ..for the respondent no. 7

Affidavit of service filed in Court is taken on record.

Heard learned counsels for the parties.

Private respondents were served with a notice under Section 10(1) of the West Bengal Highways Act, 1964 (hereinafter referred to as "the Act of 1964") alleging unauthorised construction by encroachment upon PWD land. The proceeding was taken to its logical conclusion by an order passed under Section 10(3) of the Act of 1964 on October 21, 2022 against which the private respondents preferred an appeal under Section 10(4) of the Act of 1964. By an order passed on December 13, 2022, the District Magistrate and Collector, Murshidabad dismissed the appeal upon affirming the order under Section 10(3) of the Act of 1964. The private respondents approached this Court against the said order in a writ petition being WPA No. 28862 of 2022. By an order passed on August 30,

2023 a coordinate Bench of this Court directed the private respondents to remove the encroachment and make over vacant possession in favour of the State authorities within September 08, 2023. The learned Court directed the respondent authorities to implement the eviction order impugned by due process of law in the event the private respondents did not comply with the order. The order was passed on an undertaking given by the private respondents before the Court to remove the encroachment within 7 days from date.

Learned counsel for the private respondents submits that though the private respondents have carried this order in appeal before the Hon'ble Division Bench of this Court, the order has been complied with by removing the encroachment from PWD land as undertaken before the learned Single Judge. Admittedly the order passed by the learned Single Judge has not been stayed by the Hon'ble Division Bench.

In view of the above, this Court is inclined to hold that since according to the private respondents, the entire encroachment made on PWD land has been removed by them, the State respondents are directed to verify the said statement made on behalf of the private respondents. In the event the encroachment is not removed by the private respondents, the State respondents are directed to remove the same within four weeks from date in terms of the order

passed by this Court on August 30, 2023 in WPA No. 28862 of 2022.

Since nothing further remains to be adjudicated in the writ petition, the same is disposed of.

There shall be, however, 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 upon compliance of necessary formalities.

(Suvra Ghosh,J)