

30.07.2024
Item No. 58
Crt.No.02
b.r.

WPA 3936 of 2024

Samrat Sk. & Anr.
-vs-
The State of West Bengal & Ors.

Mr. Md. Sarwar Jahan
Mr. Ashraful Huq
Ms. Tapati Sarkar
.... For the petitioners.

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

Mr. Partha Pratim Roy
Mrs. Paulami Chakraborty
Mr. Samrat Chakraborty
.... For the REsp. no.9.

Affidavit of service filed in Court today, is taken on record.

Md. Sarwar Jahan, learned advocate appears for the petitioners.

Mr. Supratim Dhar, learned State counsel appears for the respondent nos. 1 to 8.

Mr. Partha Pratim Roy, learned counsel appears for the private respondent no.9.

Referring to a communication dated **March 30, 2023, annexure p-5 at page-25** to the writ petition issued by the **respondent no.3**, learned counsel for the petitioners submits that despite there being a clear and specific finding of encroachment at the behest of the petitioners as well as the private respondent no.9, the

respondent State authority has been proceeding against the petitioners only and not against the respondent no.9.

Learned counsel for the private respondent no.9 submits that, no proceeding has yet been initiated under **Section 10** and various Sub-Sections thereunder under the West Bengal Highways Act, 1964 against his client who is also alleged to be an encroacher according to the petitioners. He submits that pursuant to the finding of the respondent no.3 and in terms of the previous direction of a co-ordinate Bench dated **March 17, 2022** made in **WPA 15030 of 2021** filed, *inter alia*, by the respondent no.9, proceeding under Section 10 has already been initiated against the petitioners, hence steps are being taken against the petitioners.

After considering the submissions made on behalf of the parties and upon perusal of the materials on record, it appears to this Court that, admittedly the specific finding of encroachment as would appear from the said communication dated **March 30, 2023**, as referred to above, has not been challenged either by the petitioners or by the respondent no.9. Therefore, the finding of the respondent no.3 with regard to the encroachment of public land stands crystallized and uncontroverted.

In view of the above, the **respondent no.5** is directed to forthwith initiate proceeding against the private respondent no.9 under **Section 10** of the **West Bengal Highways Act, 1964** in accordance with law positively within a period of **ten days** from the date of communication of this order.

It is needless to mention that all the subsequent steps after initiation of such proceeding shall be carried out and taken by the appropriate authority without any delay and as expeditiously as possible so that the Section 10 proceeding can arrived at a logical conclusion in accordance with law forthwith.

In the event, appropriate authorities seek any police assistance, the respondent no.7 shall render all necessary assistance in accordance with law.

It is made clear that this Court has not gone into the merits of the rival contentions of the parties in this writ petition.

Since affidavits are not called for, the allegations made in this writ petition are deemed not to have been admitted by the respondents.

With the above observations and directions, this writ petition, **WPA 3936 of 2024** stands **disposed of**, without any order as to costs.

(Aniruddha Roy, J.)