

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. No. 24950 of 2018

Barendra Nath Sahoo

VS

The State of West Bengal & Ors.

Before : The Hon'ble Justice M.V. Muralidaran

Mr. K. C. Das,

Mr. Sk. Sahjahan

----- for the petitioner.

Mr. Suman Sengupta,

Mr. Amrita Panja Moulick

----- for the State.

Mr. Atarup Banerjee,

Mr. Rajdeep Pramanick,

Ms. Anuska Bose

----- for the Respondent Nos. 9 to 11.

Hearing concluded on :

05.03.2024

Judgment On :

03.04.2024

M.V. Muralidaran, J.:

Heard Mr.K.C.Das, learned counsel for the petitioner, Mr.Suman Sengupta, learned Government counsel for the respondents 1 to 8 and Mr.Atarup Banerjee, learned counsel for the respondents 9 to 11.

2. The writ petition has been filed by the petitioner to quash the impugned orders dated 4.10.2018 and 1.11.2018 passed by the District Magistrate, Purba Medinipur and to direct the respondents to remove the encroachment over the PWD land in Dag No.175, J.L.No.38, Khatian No.515 of Mouza-Ilan, Police Station – Egra and also to direct the private respondents to stop construction over the land in question.

3. The case of the petitioner is as follows:

The petitioner is owning and possessing the plot of land admeasuring about 14 decimal at Dag No.175, J.L.No.38, Khatian No.515 of Mouza-Ilan, which is situated besides the Egra to Digha Roads via Kudi. The parts of the plots land being Plot No.175 were acquired and, in this regard, respective plan was issued by the competent authority. There is an encroachment and construction over the PWD land of Dag No.175, which is situated besides the Egra to Digha Roads, which is used by the petitioner as ingress and egress as well as the general public at large. While so, the private respondents 9 to 11 without taking any permission from the authority have illegally made an encroachment and started construction over the said PWD land of Dag No.175.

3.1. The petitioner intimated to the Assistant Engineer, Contai Sub Division, Highway, PWD (Roads) Directorate, Purba Medinipur that the private respondents have obstructed the PWD land. However, the Assistant Engineer did not take steps for removal of the encroachment. The encroachment made by the private respondents was also brought to the notice of the respondent authorities, but no steps have been taken to remove the unauthorized obstruction on the PWD land. If the private

respondents are allowed to continue to obstruct the land in question, the petitioner, including the other people will suffer immense loss.

3.2. Aggrieved by the inaction on the part of the respondent authorities in not taking steps to remove the obstruction, the petitioner has filed W.P.No.21129(W) of 2017. The said writ petition was disposed of by this Court under the order dated 14.9.2017. Thereafter, the Assistant Engineer has issued notice under Section 10(1) of the West Bengal Highways Act to the respondents 9 to 11 directing them to remove the structure and/or obstruction on or before 21.9.2017.

3.3. Since the respondents 9 to 11 did not remove the encroachments, the Assistant Engineer has made an application under Section 10(2) of the Act before the Sub Divisional Executive Magistrate at Egra for removal of the unauthorized encroachment in front of Dag No.175. Pursuant to the said notice, the Sub Divisional Magistrate issued hearing notice to the private respondents to appear on 8.11.2017. On the same day, the Sub Divisional Magistrate has passed an order based on the report submitted by the Spl. LAO that the opposite parties have not encroached the public land.

3.4. Aggrieved by the order dated 8.11.2017, the petitioner has filed an appeal before the District Magistrate. The District Magistrate, vide order dated 29.5.2018, observing that since the LA plan is considered as evidence in respect of any land acquisition and the land mentioned in the appeal was acquired by the State, the PWD (Roads) Department to file a separate petition to the Sub Divisional Magistrate on the basis of the LA plan for getting an order for removal of encroachment over the public land and also ordered joint inspection for measurement of the exact area of land that belongs to the PWD (Roads) Department. Pursuant to the order dated 29.5.2018, joint inspection over the suit plot was conducted.

3.5. Aggrieved by the order dated 29.5.2018, the private respondents have filed W.P.No.11495(W) of 2018. By the order dated 24.7.2018, the said writ petition was disposed of. On 4.10.2018, the appeal was taken up for hearing by the District Magistrate and the District Magistrate was pleased to observe that from the report it reveals that as per the revised land acquisition plan for Egra Ramnagar Road, 3.33 decimals land of the private respondent and 1.25 decimals land of the petitioner of Plot No.175 situated over the land proposed to be acquired for Egra Ramnagar bypass and simultaneously the report

reflects the fact that as per the acquisition shown in the concerned LR Mouza Map 0.18 acrs land of the same plot has been acquired. Thereafter, on 1.11.2018, the District Magistrate has passed final order upholding the order dated 8.11.2017 and has also observed that the removal of encroachment is not required. Challenging the aforesaid two orders, the petitioner has filed the present writ petition.

4. Respondents 1 to 7 filed affidavit-in-opposition stating that as per the request of the petitioner a field inspection of the plot was made by the Junior Engineer, Egra Highway Section and the Junior Engineer had submitted a report to the Contai Highway Sub Division stating that without demarcation it was hardly possible whether the private respondents are forcibly occupied the Government land or not. The PWD (Roads) Directorate requested the Block Land and Land Reforms Officer for demarcation of the suit plot vide memo dated 18.8.2017 and the Executive Engineer requested to look into the matter and take suitable measure to the District Magistrate. On 8.9.2017, field enquiry had been conducted and the demarcation report has been received from the Block Land and Land Reforms Officer vide memo dated 11.9.2017 where he had reported that Government land had been acquired by the private respondents.

4.1. It is stated that as per the demarcation report, notice under Section 10(1) of the Act has been served by the Contai Highway Sub Division to the unauthorized encroachers for removal of their unauthorized encroachments. In the meantime, the petitioner has filed W.P.No.21129(W) of 2017 and the said writ petition was disposed of with certain direction. In compliance with the direction issued in the said writ petition, a request letter and other related documents were provided to Sub Divisional Magistrate for issuance of eviction order vide memo dated 21.9.2017. As per the requesting letter of the Assistant Engineer, a hearing notice was issued by the Sub Divisional Executive Magistrate dated 16.10.2017 for hearing on 8.11.2017. After hearing, the Sub Divisional Executive Magistrate passed an order on 8.11.2017 holding that the respondent therein has not encroached the public land. Hence no removal is required.

4.2. It is stated that subsequently on 21.11.2017 an appeal under Section 10(4) has been filed by the petitioner before the District Magistrate against the order dated 8.11.2017. The said appeal was taken by the District Magistrate and after hearing, the District Magistrate passed an order for fresh joint field verification by the officials of the PWD

and L & LR Department. Pursuant to the said order, field inspection was done and report was submitted stating that 0.18 acre of government acquired land is in Plot No.175 and no encroachment exists in the government acquired land. On 1.11.2018, an order was passed by the District Magistrate after necessary verification with the Special Land Acquisition Officer where she ordered that the order of the Sub Divisional Magistrate dated 8.11.2017 is upheld and affirmed and the removal of encroachment is not required. Hence, prayed for dismissal of the writ petition.

5. Respondents 9 to 11 filed affidavit-in-opposition stating that earlier the petitioner has filed W.P.No.21129(W) of 2017 and, by the order dated 14.9.2017, the said writ petition came to be disposed of. In response to the said order, the Assistant Engineer has submitted a representation dated 21.9.2017 before the Sub Divisional Magistrate for removing the unauthorized encroachment in front of Dag No.175. After having received the representation, the Sub Divisional Magistrate proceeded under Section 10(3) of the Act and, ultimately, after consulting with the records available from the office of the Special Land Acquisition Officer, disposed of the proceeding observing that the private respondents have not encroached any public land.

5.1. It is stated that the Special Land Acquisition Officer duly informed that the land in question was acquired in L.A. Case No.94/1964-65 as competent authority duly initiated a proceeding under the Act for the purpose of transport and communication. From the report submitted by the Special Land Acquisition Officer, it appears that only 0.18 acre of land has been acquired out of 1.28 acre of land situated in Plot No.175 and it appears that instead of 110 decimals, 106 decimals is recorded whereas 4 decimals of land is belonging to the petitioner as they have got by way of inheritance in which a godown is situated.

5.2. It is stated that the concerned Block Land and Land Reforms Officer, Egra-I with an ill motive prepared a sketch map of his own and submitted before the Court in W.P.No.21129(W) of 2017 as well as before the Sub Divisional Executive Magistrate in which it is revealed that the road has been curved, whereas from the RS and LR Mouza map, it appears that the road is not at all curved. It is also ascertained from the office of the Block Land and Land Reforms Officer that the Executive Engineer, Survey Division and the Superintending Engineer, Road Planning prepared a proposed map in which a curved area is shown whereas from the final publication it does not appear.

5.3. It is also stated that the Special Land Acquisition Officer is the custodian of main records and from that record it appears that there is no curved area in the map. The Sub Divisional Executive Magistrate relied upon the report of the Special Land Acquisition Officer and dropped the proceedings. It is stated that the petitioner has purchased the property from the father of the respondents 9 to 11 and he has been trying to encroach the property belonging to the respondents 9 to 11 by instituting one after another writ petition. Hence, prayed for dismissal of the writ petition.

6. Assailing the impugned orders, learned counsel for the petitioner submitted that the petitioner is the owner of the plot of land admeasuring about 14 decimal at Dag No.175, which is situated besides the Egra to Digha Roads via Kudi and he used the PWD land for his ingress and egress to reach the main road. The Government of West Bengal has initiated proceedings under the West Bengal Land (Requisition and Acquisition) Act, 1948 for construction of Egra Ramnagar Road. In that proceedings, some parts of plots land being Plot No.175 were acquired and the same was published in the Gazette and the plan was also issued by the competent authority.

7. Learned counsel for the petitioner further submitted that the petitioner has submitted a representation to the PWD authority to remove the illegal construction made on the PWD land i.e. in front of the petitioner's land. Since the said illegal construction has not been removed, the petitioner has filed W.P.No.21129(W) of 2017 and, by the order dated 14.9.2017, the said writ petition was disposed of by directing the PWD authority to take steps for removal of the illegal encroachment on the basis of the report submitted by BL&LRO. Thereafter, the PWD authority has issued notice under Section 10(1) of the West Bengal Highways Act, 1964 to the respondents 9 to 11 for removal of the illegal construction made on the PWD land. Since the respondents 9 to 11 have failed to remove the illegal constructions, the SDEM has initiated proceedings under Section 10(3) of the Act and notice was also issued.

8. According to the learned counsel for the petitioner, on 8.11.2017, an order came to be passed by the Sub Divisional Magistrate based on the report of the Spl. LAO that the private respondents have not encroached the public land and no removal is required. Aggrieved by the said order dated 8.11.2017, the petitioner has filed an appeal, being Appeal Case No.5(AO) of 2017, under Section 10(4) of the Act. By the

order dated 29.5.2018, the District Magistrate has passed an order that LA plan is considered as a conclusive evidence in respect of any land acquisition, therefore, it is evident that the land mentioned in the appeal petition was acquired by the State and it is requested to the PWD (Roads) Department to file a separate petition to the Sub Divisional Magistrate on the basis of the LA plan for getting an order for removal of encroachment over the public land. It is submitted that the District Magistrate has also ordered joint inspection by the District Land and Land Reforms Officer for measurement of the exact area of the land that belongs to the PWD (Roads) Department. Pursuant to the order dated 29.5.2018, the District Land and Land Reform Officer, Purba Medinipur conducted a joint inspection over the suit plot.

9. The learned counsel for the petitioner further submitted that aggrieved by the order dated 29.5.2018, the respondents 9 to 11 have filed W.P.No.11495(W) of 2018 and, while rejecting the said writ petition, this Court observed that the point of locus was not agitated by the respondents 9 to 11 at the inception when the appeal was heard on 7.4.2017 and, as such, stood acquiescenced. On 4.10.2018, the appeal was taken up for hearing by the District Magistrate and, after hearing the parties and upon perusing the report of the District Land and Land

Reforms Officer, observed that as per the revised land acquisition plan for Egra Ramnagar Road, 3.33 decimals land of the private respondents and 1.25 decimals land of the petitioner of Plot No.175 is situated over the land proposed to be acquired and the report reflects the fact that as per acquisition shown in the concerned LR Mouza Map 0.18 acrs and of the same plot has been acquired which is free from any unauthorised encroachment. Thereafter, on 1.11.2018, the District Magistrate has passed a final order upholding the order of the Sub Divisional Magistrate dated 8.11.2017 and has also observed that removal of encroachment is not required.

10. According to the learned counsel for the petitioner, the impugned order of the District Magistrate is totally contradictory, if the relevant records are perused. The District Land and Land Reforms Officer along with the authority of PWD have conducted a joint inspection and found that the suit land was acquired by the Government. In fact, in the orders dated 4.10.2018 and 1.11.2018, it was mentioned that Plot No.175 has been acquired. Thus, a prayer has been made to set aside the order dated 1.11.2018 and direct removal of unauthorised encroachment of public land in front of the petitioner's private property.

11. Per contra, the learned Government counsel contended that the Sub Divisional Executive Magistrate has passed an order on 8.11.2017 thereby clearly mentioning that the private respondents have not encroached the public land and, therefore, no removal is required. Aggrieved by the same, an appeal was filed before the District Magistrate and in the said appeal, direction was issued for conduction of fresh joint field verification by the officials of PWD and L & LR Department after giving notice to all concerned. Pursuant to the same, on 8.1.2018, the field inspection was conducted and found that 0.18 acre of Government acquired land is in Plot No.175 and no encroachment exists in the Government acquired land. Thereafter, the District Magistrate directed the Special Land Acquisition Officer to verify the Gazette notification qua acquisition of suit land.

12. According to the learned Government counsel, the Special Land Acquisition Officer has conducted field inspection of the plot in question along with BL& LRO and has submitted a report to the effect that the encroachment has not existed in Plot No.175. Finally, after going through the entire records, the District Magistrate passed an order on 1.11.2018 upholding the order of the Sub Divisional Magistrate dated 8.11.2017 and affirmed that the removal of encroachment is not required. Since the

said orders are well considered one, the same require no interference. Thus, a prayer is made to dismiss the writ petition.

13. The learned counsel for the private respondents, *inter alia*, submitted that initially for the purpose of construction of Egra Ramnagar Road, a proceeding was initiated by the competent authority under the Act and through which some portions of land has been acquired in Survey Plot Nos.170, 171, 172, 173, 174 and 175 and the same was published in the Gazette on 6.1.1996, but subsequent thereto, again a proceeding was initiated as it was found for the purpose of construction of the road the initial acquisition was not proper and ultimately fresh proceedings was initiated. According to the learned counsel, in Plot No.175, there is a total area of 128 decimals, the acquired area is 18 decimals, but unfortunately, 106 decimals has been recorded instead of 110 decimals.

14. The learned counsel further submitted that from the acquisition proceedings, it appears that only 18 decimals of land has been acquired and in consonance with that a final blue print of the map was prepared and signed and after verifying all the records, it was found that there was no encroachment. Such a conclusion arrived at by the authorities is based on records and the same cannot be questioned by the petitioner.

In fact, the petitioner is trying to encroach the property belonging to the respondents 9 to 11. Thus, a prayer is made to dismiss the writ petition.

15. This Court considered the rival submissions and also perused the materials available on record.

16. The present writ petition has been filed challenging *inter alia* the impugned orders dated 4.10.2018 and 1.11.2018 passed by the second respondent. The petitioner complains of illegal encroachment to a public property in front of the petitioner's land by the private respondents.

17. The present matter has a chequered history.

18. According to the petitioner, the Government of West Bengal initiated proceedings for construction of Egra Ramnagar Road and some parts of plot land being Plot No.175 was acquired. An illegal encroachment and construction over the PWD land of Dag No.175 has been made by the private respondent thereby obstructing the ingress and egress of the petitioner. The private respondents without taking any permission from any authority have illegally made the encroachment and started construction over the said PWD land of Dag No.175. The

petitioner intimated the alleged construction to the Assistant Engineer and the obstruction made by the private respondents. Alleging that the Assistant Engineer has not taken steps, the petitioner complained of the same to the respondent authorities. Despite that, the respondent authorities have not removed the unauthorized obstruction on the PWD land. The petitioner has also filed W.P.No.21129(W) of 2017 before this Court. This Court, by the order dated 14.9.2017, disposed of the said writ petition. The operative portion of the order reads thus:

"The issue is not of the private respondent being away from a metal road. The issue is one of occupation of public property illegally. The authorities are of the view that both the writ petitioners as well as the private respondents are in illegal occupation of public property. Therefore, they are at liberty to initiate appropriate measures for the purpose of removal of illegal encroachment. Request for filing of affidavits need not be accepted as the private respondents would not be rendered remediless without affidavit in this proceedings. In the event, such proceedings for eviction are initiated, the private respondents would be in a position to canvass all their points before the appropriate authority. Desire to file affidavit in the writ petition is for the purpose of continued enjoyment of illegal occupation of public property by citing the pendency of this writ petition.

W.P.No.21129(W) of 2017 is disposed of without any order as to costs."

19. Pursuant to the direction issued in W.P.No.21129(W) of 2017, the Assistant Engineer has submitted a representation to the Sub Divisional Executive Magistrate, Egra for removing the unauthorised construction in front of Dag No.175. After considering all the records available from the office of the Special Land Acquisition Officer, under the order dated 8.11.2017, the Sub Divisional Magistrate disposed of the proceeding by observing that the private respondents have not encroached any public land and no removal is required. The order dated 8.11.2017 is assailed by the petitioner by filing an appeal before the District Magistrate in Appeal Case No.5(AO) of 2017. Under the order dated 29.5.2018, the District Magistrate ordered joint inspection by the District Land and Land Reforms Officer and PWD (Roads) Department for measurement of the exact area of land that belongs to the PWD (Roads) Department on the basis of the two LA plans. Pursuant to the order dated 29.5.2018, a joint inspection was conducted over the plot in question.

20. Aggrieved by the order dated 29.5.2018, the private respondents have filed W.P.No.11495(W) of 2018. By the order dated 24.7.2018, the said writ petition was disposed of observing as under:

"A perusal of the sixth paragraph of the said order dated 29th May, 2018 reveals that the respondent no.3 has requested the P.W.D. (Roads) Department to file a separate petition to the Sub-Divisional Magistrate, Egra. Even in the event such request is accepted and any proceeding is initiated by the P.W.D. (Roads) Department, Egra the same shall be conducted strictly in accordance with law upon giving due opportunity of hearing to the aggrieved persons. The observation made in the sixth paragraph of the order passed by the respondent no.2 stands clarified to that extent.

In the seventh paragraph of the order dated 29th May, 2018 the District Land and Land Reforms Officer and the P.W.D. (Roads) Department, Contai have been directed to conduct joint inspection for measurement of exact area of encroachment and also to determine the area of land that belongs to the P.W.D. (Roads) Department on the basis of two LA Plans and to submit a report. Such direction in my opinion does not prejudice the petitioner in any manner inasmuch as the direction is only to conduct joint inspection and to submit a report. As such, no interference is called.

With the above observations the writ petition is disposed of."

21. It appears that, on 4.10.2018, the appeal was taken up by the District Magistrate and, on the same day, the District Magistrate has passed the following interim order:

"From the report it reveals that as per Revised Land Acquisition Plan for Egra Ramnagar Road vide DRG No.MID/54/LA/R-1/65, 3.33 decimals land of the Private Respondents and 1.25 decimals land of the Petitioner of Plot No.175 of Mouza – Ailan, JI No.38 is situated over the land proposed to be acquired for Egra Ramnagar Bypass.

Simultaneously, the report also reflects the fact that as per acquisition shown in the concerned LR Mouza Map 0.18 acrs land of the same Plot has been acquired for Egra Ramnagar Road which is free from any unauthorized encroachment.

Considering the above facts it is ordered that final judgment will be passed after verification of reports with Special Land Acquisition Officer, Purba Medinipur."

22. Thereafter, on 1.11.2018, the District Magistrate has passed final order and the said final order reads thus:

"After necessary verification with Spl. LAO, Purba Medinipur the following facts reveal:-

The Petitioner mentioned that Plot No.175 has been acquired twice vide Gazette notification Nos.15590 LA (P.W)/C-II Dated 06/9/1966 and 20697 LA (P.W)/C-II dated 18/12/1965 respectively.

From both the Notifications it is found that the land was acquired u/s 4 of West Bengal Land (Requisition & Acquisition_ Act' 1948 (WB Act-II of 1948).

The Report of Spl. LAO, Purba Medinipur mentioned that possession certificate and award list for LA Case No.94/1964-65 corresponds to Notification No.15590 LA (P.W)/C-II Dated 06/9/1966 are found in the office record which confirms that 0.18 acre land of the same plot has been acquired which is free from unauthorized occupants.

Considering the above facts it is hereby ordered that the order of the Ld. Sub-Divisional Magistrate, Egra dated 08.11.2017 is upheld and affirmed and the removal of encroachment is not required.

Thus the appeal petition is finally disposed of."

23. The petitioner vehemently contended that the District Magistrate is in a deliberate mood affirmed the order dated 8.11.2017 passed by the Sub Divisional Magistrate. Admittedly, in order to prove the same, the petitioner has not produced any concrete evidence. The argument of the learned counsel for the petitioner is that the District Magistrate's acts and action show utter violation of their statutory duties as indicated in the specified Act and, accordingly, the action of the District Magistrate is liable to be set aside. The aforesaid argument of the learned counsel for the petitioner cannot be countenanced.

24. It is to be noted that, as per the request made by the petitioner, a field inspection of the plot was made by the Junior Engineer,

Egra Highway Section and the Junior Engineer has submitted a report to the Contai Highway Sub Division stating that without demarcation it was hardly possible whether the private respondents are forcibly occupied the Government land or not. The PWD (Roads) Directorate requested the Block Land and Land Reforms Officer for demarcation of the suit plot vide memo dated 18.8.2017 and the Executive Engineer requested to look into the matter and take suitable measure to the District Magistrate. On 8.9.2017, a field enquiry was conducted and the demarcation report has been received from the Block Land and Land Reforms Officer vide memo dated 11.9.2017 where he had reported that Government land has been acquired by the private respondents. As per the demarcation report, notice under Section 10(1) of the Act was served by the Contai Highway Sub Division to the unauthorized encroachers for removal of their unauthorized encroachments. In the meanwhile, the petitioner has filed W.P.No.21129(W) of 2017 and the said writ petition was disposed of by this Court with certain direction. In compliance with the direction issued in the said writ petition, the Sub Divisional Magistrate was requested to issue eviction order vide memo dated 21.9.2017. As per the requesting letter of the Assistant Engineer, a hearing notice was issued by the Sub Divisional Executive Magistrate for hearing on 8.11.2017. After hearing the parties, the Sub Divisional Executive Magistrate passed an order on

8.11.2017 holding that the respondent therein has not encroached the public land. Hence no removal is required.

25. On 21.11.2017, an appeal was filed by the petitioner before the District Magistrate against the order dated 8.11.2017. The said appeal was taken by the District Magistrate and after hearing, the District Magistrate has passed an order for fresh joint field verification by the officials of the PWD and L & LR Department. Pursuant to the said order, a field inspection was conducted and a report was submitted stating that 0.18 acre of government acquired land is in Plot No.175 and no encroachment exists in the government acquired land. On 1.11.2018, an order was passed by the District Magistrate after verification with the Special Land Acquisition Officer thereby upholding the order of the Sub Divisional Magistrate dated 8.11.2017 and has also observed that the removal of encroachment is not required.

26. The materials on record would reveal that 0.18 acre land of Plot No.175 has been acquired, which is free from unauthorized encroachment. The official respondents have stated that as per acquisition shown in the concerned LR Mouza Map 0.18 acrs land of the same Plot has been acquired for Egra Ramnagar Road which is free from

any unauthorized encroachment. When such being the case of the respondent authorities, that too the same being based on the revenue records, this Court exercising jurisdiction under Article 226 of the Constitution of India cannot interfere with it.

27. The learned counsel for the private respondents submitted that the petitioner has filed the instant writ petition for public purpose and the averments sets out in the writ petition also said so. He claims encroachment by the private respondents on the PWD land, which is situated in front of his house.

28. At this juncture, it is relevant to quote Section 10(4) of the West Bengal Highways Act:

"If any person responsible for the encroachment in aggrieved by the order of the Magistrate made under sub-section (3) he may, within fifteen days from the date of the Magistrate's order, appeal to the District Magistrate. The District Magistrate shall, after hearing the parties, make an order affirming, modifying or setting aside the order made under sub-section (3)."

29. From the essence of Section 10(4) of the Act, it appears that first of all the petitioner has no locus to prefer the present writ petition,

as he is not the aggrieved person. The petitioner's alleged ingress and egress to reach the road is also not supported by any material. The fact remains that the earlier litigations instituted by the parties went against the petitioner. The enquiry/inspection made by the authority would clearly indicate that there is no encroachment. Further, the order of the District Magistrate is to the effect that Egra-Ramnagar Road is free from any unauthorized encroachment. Only after considering the report of the Special Land Acquisition Officer, the District Magistrate has passed the final order dated 1.11.2018 stating that removal of encroachment is not required.

30. That apart, during the course of hearing, the learned counsel for the private respondents has produced the L.R. Mouza map. The competent authority in consultation with the Special Land Acquisition Officer and after having physical inspection and measurement, published the L.R. Mouza map and has also notified under the West Bengal Land Reforms Act. On a perusal of the same, this Court finds that there is no indication about the encroachment on the land in question. In the said Mouza map, the existence of road and the land of the private respondents have been duly sketched.

31. No valid grounds have been made to interfere with the impugned orders. On the other hand, the impugned orders under challenge are well considered and, therefore, the same cannot be disturbed. The prayer sought by the petitioner to remove the encroachment is also not well founded and the conclusion of the respondent authorities is that encroachment is not required in this matter. Only after affording sufficient opportunities to the parties, the impugned orders have been passed by the District Magistrate. Therefore, the principles of natural justice has been adhered to before passing the impugned orders. In the light of the discussion, this Court is of the view that there are no flaws in the impugned orders and the same are sustainable in law. There is no merit in the present writ petition and, therefore, the same is liable to be dismissed.

32. In the result, the writ petition is dismissed. No costs.

(M. V. Muralidaran, J.)

