

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

06 23.12.2024
Sc Ct. no.2

WPA 30114 OF 2024

Piarul Islam

Vs.

The State of West Bengal & Ors.

Mr. Robiul Islam
Mr. Raju Mondal
Mr. Masooq Rahman.

.... For the Petitioner

Mr. Supratim Dhar
Mr. Subhadeep Maitra.

.... For the Respondents
State

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

Mr. Robiul Islam, learned counsel appears for the petitioner.

Mr. Supratim Dhar, learned senior counsel with Mr. Subhadeep Maitra, learned advocate appear for the State respondent nos. 1 to 6.

None appears for the private respondent nos. 7 and 8.

The petitioner is aggrieved with the notices dated **September 30, 2024** and **November 28, 2024**, **Annexure-P4 at page 21** and **Annexure-P5 at page 22** respectively to the writ petition.

Learned counsel for the petitioner submits that, the plot whereupon the petitioner has constructed his dwelling house is the subject-matter of the said two impugned notices issued under **sub-Section (1) to Section 10** of the **West Bengal Highways Act, 1964** (for short the 1964 Act). The petitioner claims that, unless a proper demarcation is made, the question of proceeding any further would not arise.

Mr. Supratim Dhar, learned senior counsel appearing for the State submits that, the proceeding under Section 10 cannot be stalled on this ground.

After considering the rival submissions of the parties and upon considering the materials on record, it appears to this Court that, the proceeding has already been initiated under Section 10 of the 1964 Act. There is no question of stalling the said proceeding.

In aid of the said Section 10 proceeding, which has already been initiated, the respondent no.6 upon notice to the petitioner and the private respondents shall cause a physical inspection of the subject plot in respect whereof Section 10 proceeding has been initiated and shall prepare a report with a demarcating sketch map as to what extent the PWD land has been encroached, if at all, by the petitioner.

This exercise shall be carried out by the respondent no.6 positively within a period of **two weeks** from the date of communication of this order. Copy of

the report and sketch map to be prepared by the respondent no.6 then shall be furnished before the petitioner and the private respondent nos. 7 and 8 and also before the respondent no.5 within a period of **one week** from the date of the said report to be prepared.

If the inspection report and the demarcation map confirm the encroachment on the PWD land, then the appropriate jurisdictional authority after granting an opportunity of hearing to the petitioner and the private respondents, shall come to a reasonable conclusion of the Section 10 proceeding in accordance with law as expeditiously as possible.

This order shall not create any right or equity in favour of the petitioner or in favour of the private respondents, if they do not succeed to their respective contentions in the Section 10 proceeding strictly in accordance with law.

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 30114 of 2024** stands **disposed of**, without any order as to costs.

Photostat certified copy of this order, if applied for, be furnished expeditiously.

(Aniruddha Roy, J.)