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jdt. 08.01.2024
jb.

W.P.A. 9549 of 2020
(Nagendra Nath Sau vs. State of West Bengal & Ors.)

Mr. D. K. Adhikari
... For the Petitioner

Mr. N. C. Bihani
Ms. P. B. Bihani
... For the State

Affidavit of service filed on behalf of the petitioner is taken on record.

The copy of the order passed under Section 10(3) of the West Bengal Highways Act, 1964 submitted on behalf of the petitioner is taken on record.

The petitioner prays for implementation of the said order under Section 10(3) of the West Bengal Highways Act, 1964 passed by the Sub-Divisional Magistrate, Jhargram sadar on 23rd February, 2023.

Learned counsel for the petitioner submits that the private respondents have raised unauthorised construction by encroaching upon a portion of the State highway adjoining his property, thereby obstructing his egress and ingress. Pursuant to applications made by the petitioner in this regard before the concerned authorities, proceeding under Section 10 of the West Bengal Highways Act, 1964 was initiated and by an order passed under Section 10(3) of the Act, the Sub-Divisional Magistrate, Jhargram sadar directed the

concerned authorities to demolish the unauthorised construction upon deploying adequate police force for maintenance of law and order during such demolition. Learned counsel submits that a portion of the unauthorised construction has been removed by the private respondents after the said order, but the entire unauthorised construction is yet to be demolished.

Learned counsel for the State respondents submits, on instruction, that the private respondents preferred an appeal against the order under Section 10(3) of the Act of 1964 which was turned down by the District Magistrate by an order passed under Section 10(4) of the Act. The private respondents have demolished the unauthorised construction standing on the said highway.

Upon consideration of the submission made on behalf of the parties, this Court is inclined to hold that since the order of demolition has been passed by the Sub-Divisional Magistrate on 23rd February, 2023 under Section 10(3) of the Act of 1964, the Assistant Engineer, Jhargram, being the 6th respondent herein be directed to implement the said order and cause demolition of the entire unauthorised construction on the said highway within one month from the date of communication of this order. The Superintendent of Police, Jhargram is directed to render all assistance for implementation of the order.

The writ petition is thus disposed of.

There shall be no order as to costs.

Since no affidavit has been invited, allegations contained in the writ petition shall be deemed not to have been admitted.

Urgent certified website copy of the order, if applied for, be given to the parties on compliance of requisite formalities.

(Suvra Ghosh, J.)