

**Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction**

W.P.A 2119 of 2024

**M/s. Asmi Construction
-versus
The State of West Bengal & Ors.**

**Mr. Deborshi Dhar,
Mr. Rahul Agarwal.
...For the Petitioner.**

**Mr. Subir Kumar Saha, AGP,
Ms. Patralekha Choudhury.
...For the State.**

**Ms. Supriya Singh.
...For NHAI.**

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

2. The petitioner alleges illegal encroachment of certain plots of land which, according to the petitioner, falls within the jurisdiction of the National Highway Authority.

3. A representation has been filed before the National Highways Authority which is alleged to be kept pending.

4. The petitioner relies upon a communication made by the Executive Engineer (NFSG) (S, R&T) (Roads) dated 26th September, 2016 regarding removal of illegal encroachment and unauthorized access/cuts on National Highways in support of its prayer for removal of the encroachment.

5. Learned advocate appearing for the highways authority submits, upon instructions that, the land in question where encroachment is alleged does not fall within the jurisdiction of the highways.

6. The representation filed by the petitioner appears to be pending consideration before the highways authority.
7. Without entering into the merits of the said representation, the writ petition is disposed of by directing the Executive Engineer of the National Highways Division, Matigara, Siliguri, respondent no. 10 herein to consider and dispose of the representation filed by the petitioner in accordance with law, at the earliest but positively within a period of ninety days from the date of communication of this order.
8. If the authority is of the opinion that the land in question does not fall within its jurisdiction, then the said authority shall forward the representation to the Block Development Officer, Matigara. The respondent no. 3 shall take up the issue and take steps to deal with the unauthorized encroachment in accordance with law.
9. An opportunity of hearing shall be given to all the necessary parties prior to passing a final order in the matter.
10. From the affidavit of service it does not appear that the copy of the writ petition has been served upon by the private respondents.
11. The writ petition is disposed of as the order passed herein will not prejudice the private parties in any manner and reasonable opportunity of hearing shall be granted to all the private parties prior to any decision being taken in the matter.
12. Learned advocate appearing for the petitioner is directed to forward a copy of the representation dated 7th August, 2024 to the aforesaid respondent at the time of communicating the order of the Court.
13. The writ petition stands disposed of.

14. Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)