

22-01-2025
Item No.8
Subrata
Bhattacharyya
AR(C)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
Appellate Side

WPA No.1415 of 2025
Gobinda Das & Ors.

-vs-
State of West Bengal & Ors.

Md. Sarwar Jahan
Mr. Tapas Kumar Mondal
Mr. Maidul Islam Kayal
Ms. Sneha Srivastava ...for the petitioners

Mr. Chandi Charan De, AGP
Ms. Reshma Chatterjee ...for the State

Mr. Tanmoy Mukherjee
Mr. Kamal Mishra
Ms. Atreya Chakraborty
Mr. Souvik Das
Mr. K. Raihan Ahmed
Mr. Rudranil Das
Mr. Tapas Chatterjee ...for the private respondents

1. As many as twenty-eight petitioners in this writ petition are aggrieved by the implementation of the direction passed by the District Magistrate, South 24 Parganas dated December 26, 2024 whereby the District Magistrate came to a specific finding that the illegal encroachment over the Government land is to be removed. The respondents are taking steps for removal of the unauthorized encroachers.
2. Learned counsel appearing for the petitioners submits that the land from where the petitioners are sought to be evicted does not fall within the definition of the State Highway. According to the petitioners, without ascertaining the fact whether

the Highway belongs to the State or the Central, the District Magistrate has illegally and arbitrarily passed the order for removal of the encroachers.

3. Prayer has been made to stay the eviction proceeding for the time being and direct the Highways authorities – both the State and the Central – to take a joint inspection in the presence of the private parties.
4. Learned counsel for the private respondents refers to the order passed by a coordinate Bench of this Court **on April 29, 2024 in WPA No.24678 of 2014 with CAN 1 of 2015 (Old No. CAN 4219 of 2015) with CAN 2 of 2015 (Old No. CAN 5515 of 2015) [Sri Laxmi Kanmta Maiti v. The State of West Bengal & Ors.]** wherein the Court took note of the final demarcation report submitted by the Block Land & Land Reforms Officer, Kakdwip, South 24 Parganas.
5. The stand of the Executive Engineer, Diamond Harbour, Highway Division, Public Works (Roads) Directorate was also considered. The Court specifically directed the Collector, South 24 Parganas or the authority empowered under the West Bengal Public Land (Eviction of Unauthorized Occupants) Act of 1962 to take steps for initiation of proceeding against the encroachers within a stipulated time period.
6. Challenging the order passed by the Hon'ble single Judge, an appeal has been preferred by the writ petitioners herein. But no order has yet been passed so far staying the operation of the order passed by the single Bench.
7. The petitioners try to create confusion over the action taken by the District Magistrate under the provisions of the West Bengal Highways Act,

1964. It has been submitted that steps ought to have been taken under the provisions of the West Bengal Public Land (Eviction of Unauthorised Occupants) Act, 1962 and not under the Highways Act, 1964.

8. It appears that the aforesaid submission was also made before the coordinate Bench and the Court considered the same and passed necessary order. In the present proceeding the Court is not inclined to permit the petitioners to reagitate the issue all over again.
9. In compliance with the order passed by the learned single Judge on April 29, 2024 in the earlier writ petition, the Block Land & Land Reforms Officer, Kakdwip, South 24 Parganas conducted further spot inspection to demarcate the portions which were encroached by the encroachers. A report dated December 24, 2024 by the Block Land & Land Reforms Officer is on record. It appears that the R.S. plot no.525/813 corresponding to L.R. Plot no.674 of mouza-Akkhaynagar J.L No.38 is classified as Nayanjuli and recorded in the name of the Collector.
10. The impugned order dated December 26, 2024 also takes note of the subject plot numbers that is R.S. plot nos.521/685 and 525/813. There is a specific finding that the aforesaid plots of land belong to the State. The contention of the petitioners that it is not decided whether the subject land belongs to the State or the Central cannot be accepted.
11. In view of the above, the Court is convinced that there is hardly any error in the order passed by the District Magistrate in conformity with the direction passed by this Court on April 29, 2024.

The unauthorized encroachers are liable to be evicted. The Court is not inclined to exercise jurisdiction in the instant writ petition.

12. The writ petition thus fails and is hereby dismissed.
13. Supplementary affidavit filed in Court be taken on record.
14. All parties are to act on the server copy of this order duly downloaded from the official website of this Court.
15. Certified copy of this order, if applied for, shall be made available to the parties.

[Amrita Sinha, J]