

M/L 16
01.09.2025
Court. No. 19
Suwayan

WPA 3263 of 2025

**Gita Rani Bala @ Gita Bala
Vs.
The State of West Bengal & Ors.**

Mr. Palash Bapari

...for the petitioner.

*Mrs. Mousumi Halder Chowdhury
Mr. Arindam Mitra*

...for the State.

*Mr. Malay Bhattacharyya
Ms. Sudipa Sengupta
Ms. Shefa Mondal*

...for the respondent no. 6.

1. The writ petitioner, the respondents/State and its instrumentalities and the private respondent no. 6 are represented by their respective Counsels.
2. By filing the instant writ petition, the writ petitioner has prayed for issuance of appropriate writ/writs against the respondents/authorities more specifically against the respondent no. 4/authority for removal of the unauthorized stall of the private respondent no. 6 as has been allegedly raised encroaching a PWD land in front of writ petitioner's property particulars of which has been mentioned in paragraph no. 2 of the instant writ petition.
3. At the time of hearing, Mr. Bapari, learned Advocate appearing on behalf of the writ petitioner at the very outset draws attention of this Court to page no. 22 of the instant writ petition being a copy of the representation dated 21.01.2025 as submitted by the writ petitioner with the respondent no. 4/authority ventilating her grievance with a request to take

immediate steps for removal of the illegal encroachment as made by the private respondent no. 6.

4. It is submitted on behalf of the writ petitioner that from the report as submitted by the respondent no. 4 it would reveal that the allegations made in the instant writ petition are genuine and, therefore, appropriate relief/reliefs may be granted to the writ petitioner in terms of the prayers made in the instant writ petition.
5. In course of his submission Mr. Mitra, learned Advocate appearing on behalf of the respondents/State and its instrumentalities draws attention of this Court to the report of the respondent no. 4 as affirmed on 04.04.2025. It is submitted by Mr. Mitra that from the report of the respondent no. 4 it would reveal that after obtaining a complaint from the writ petitioner the respondent no. 4/authority wrote a letter to the jurisdictional BL&LRO requesting him to make demarcation, a copy of which has been annexed at page no. 8 of the said report.
6. It is further submitted by Mr. Mitra that from page no. 11 of the said report it would reveal that the demarcation as sought for has been done by the jurisdictional BL&LRO wherefrom it would reveal that the allegations as made by the writ petitioner has some substance and accordingly the respondent no. 4/authority had already issued a notice under Section 10(1) of the West Bengal Highways Act, 1964 (hereinafter referred to as the 'said Act of 1964' in

short) upon the private respondent no. 6/authority on 03.04.2025.

7. Per contra, Mr. Bhattacharyya, learned Advocate appearing on behalf of the private respondent no. 6 contended that in a proceeding under Section 133 Cr.P.C. before the jurisdictional Executive Magistrate, Bongaon, North 24 Parganas a contrary report was filed by the jurisdictional BL&LRO which would be evident from the annexures to the affidavit as filed by the private respondent no. 6.
8. On careful consideration of the entire materials as placed before this Court and after hearing the learned Advocates for the contending parties, it reveals that the private respondent no. 6 was already served with a notice under Section 10(1) of the said Act of 1964 for removal of the encroachment on 03.04.2025 whereby and whereunder the private respondent no. 6 was directed to remove his encroachment by 13.04.2025.
9. Such being the position, this Court while disposing the instant writ petition directs the respondent no. 4/authority to forthwith file an application before the respondent no. 3/authority under the Section 10(2) of the said Act of 1964 if the encroachment is not removed by the private respondent no. 6 in terms of the notice dated 03.04.2025. Such application is to be made by the respondent no. 4/authority before the respondent no. 3/authority positively within 15 working days from the date of communication of the server copy of this order.

10. The respondent no. 3/authority on receipt of an application under Section 10(2) of the said Act of 1964 shall cause service of notice upon the writ petitioner and the private respondent no. 6 and after giving a due opportunity of hearing both to the writ petitioner and the private respondent no. 6 shall pass an appropriate order under Section 10(3) of the said Act of 1964 positively within 45 working days from the date completion of service upon the writ petitioner and the private respondent no. 6.
11. The time limits as fixed by this Court are mandatory and peremptory.
12. Liberty is given to the writ petitioner to communicate the server copy of this order to the respondent nos. 3 and 4 forthwith.
13. Respondent nos. 3 and 4 are directed to act on the basis of the server copy of this order.
14. With the aforementioned observation, the instant writ petition being WPA 3263 of 2025 is disposed of.
15. Urgent Xerox certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Partha Sarathi Sen, J.)