

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

**THE HON'BLE JUSTICE DEBANGSU BASAK
And
THE HON'BLE JUSTICE PRASENJIT BISWAS**

**FMA 400 OF 2025
WITH
I.A. NO.: CAN 1 OF 2025**

**MAMONI PANDA
Vs.
THE STATE OF WEST BENGAL & ORS.**

For the Appellant : Mr. Samim Ahammed, Advocate
Mr. Arka Maiti, Advocate
Mr. Arka Ranjan Bhattacharya, Advocate

For the State : Mr. Swapan Kr. Dutta, Ld. AGP
Mr. Rajat Dutta, Advocate

Hearing & Judgment On : July 1, 2025

DEBANGSU BASAK, J.:

1. Appeal is at the behest of the writ petitioner and directed against order dated January 16, 2025 passed in WPA 19099 of 2024.
2. By the impugned order, learned Single Judge directed execution and implementation of an order dated March 6, 2024 passed by the Jurisdictional Sub-Divisional Officer.
3. There is an issue of unauthorized encroachment on a public highway. Order dated March 6, 2024 of the Jurisdictional Sub-Divisional Officer, found unauthorized encroachment on a public

highway and directed removal thereof. Writ petitioner approached the Writ Court for the purpose of implementation of such order dated March 6, 2024 which resulted in the impugned order before us.

4. Learned Single Judge directed implementation of the order dated March 6, 2024. Learned Single Judge on being informed that, there may be an appeal directed against order dated March 6, 2024 pending, directed that, in the event no appeal is filed, then the order dated March 6, 2024 must be implemented.
5. Learned advocate appearing for the appellant submits that, the appellant is aggrieved by the portion of the impugned order dated January 16, 2025 which speaks of the appeal.
6. Learned senior advocate appearing on behalf of the State and its authority submits that instructions that, there is an appeal pending before the concerned District Magistrate under the provisions of the Highways Act, 1964.
7. Since there is an appeal directed against the order dated March 6, 2024 pending under the Act of 1964, justice demands its disposal prior to the order being implemented. It would, therefore, be in the interest of justice to direct the Appellate Authority, being the District Magistrate, to hear and dispose of such appeal preferably within a period of six weeks from date. We are passing these directions in view of the fact that we are informed that the appeal is pending since March 15, 2024.

8. Needless to say that, while deciding the appeal, the appellate authority will afford a reasonable opportunity of hearing to the appellant before us as also the parties to the appeal. The Appellate Authority is also at liberty to hear such other parties and consult such documents as it deems appropriate. It will pass a reasoned order which it will communicate to the parties it heard forthwith thereafter. The Appellate Authority will endeavour to complete the entire exercise within a period of six weeks from date.
9. It is imperative that encroachment, if there be any, on public highway, be removed as expeditiously as possible.
10. **FMA 400 of 2025** along with the connected application being **CAN 1 of 2025** stands **disposed of** without any order as to costs.

(Debangsu Basak, J.)

11. I agree.

(Prasenjit Biswas, J.)

(Rohan)