

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

HEARD ON: 03.03.2025

DELIVERED ON: 03.03.2025

**CORAM:
THE HON'BLE CHIEF JUSTICE T.S. SIVAGNANAM
AND
THE HON'BLE JUSTICE CHAITALI CHATTERJEE (DAS)**

**M.A.T. 279 of 2025
With
I.A. No. CAN 1 of 2025**

**Momin Ali Khan
Vs.
The State of West Bengal & Ors.
With
M.A.T. 280 of 2025
With
I.A. No. CAN 1 of 2025**

**Moumin Ali Kha @ Momin Ali Khan
Vs.
Ajit Kumar Mondal & Ors.**

Appearance:-

Mr. Prosenjit Mukherjee

Mr. Nirmalya Kr. Das

Mr. Jahangir Hossainfor the appellant

(Judgment of the Court was delivered by T.S. SIVAGNANAM, C.J.)

1. Since the issues involved in these appeals are common and identical, both the appeals are taken up together and are decided by this common judgment and order.

2. The appellant has filed these two appeals challenging a common order dated February 18, 2025 passed in W.P.A. 2240 of 2024 and W.P.A. 7808 of 2024. The appellant had filed the writ petition being W.P.A. 7808 of 2024 challenging the order passed by the District Magistrate, who confirmed the order passed by the Sub-Divisional Magistrate, Egra dated August 2, 2023 under the provisions of the West Bengal Highways Act, 1964 holding that the appellant is an encroacher of highways land.
3. The learned Single Bench examined the matter, took note of the records, which have been produced by the learned advocate representing the State/respondents and also noted that a field inquiry was conducted and a report was submitted by the Block Land and Land Reforms Officer, Egra-I certifying the said land belongs to the P.W. (Roads).
4. Furthermore, the learned Single Bench found that regular show-cause notice was issued to the appellant/encroachers and upon hearing the necessary parties, order of eviction was passed. Furthermore, the land was also demarcated.
5. The learned Single Bench found that the allegation made by the petitioner that the land does not belong to the Public Works Department (Roads) is contrary to the report drawn by the Block Land and Land Reforms Officer. Thus, the learned Single Bench concluded that the land in question being a land of the Public Works Department, the encroachers are liable to be removed.
6. The learned advocate for the appellant submitted that the field inquiry report submitted by the Block Land and Land Reforms Officer, Egra-I was not furnished to the appellant and the appellant had no opportunity to put forth his contention nor filed his affidavit-in-opposition.

7. If such is the contention raised by the appellant, the only remedy available to the appellant is to file a review before the learned Single Bench and this Court cannot test the correctness of the order passed in the writ petitions based upon materials or submissions, which were never brought on record.
8. Therefore, we are not inclined to entertain these appeals. Accordingly, the appeals are dismissed.
9. However, opportunity is granted to the appellant to file review application before the learned Single Bench, if so advised.
10. No costs.
11. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(T.S. SIVAGNANAM)
CHIEF JUSTICE

I agree.

(CHAITALI CHATTERJEE (DAS), J.)