

S/L 5
22.05.2025
Court. No. 19
Sourav

WPA 5152 of 2025

Arati Jana & Anr.

Vs.

The State of West Bengal & Ors.

Mr. Bhaskar Ch. Manna

Ms. Munmun Seth

...for the petitioner.

Mr. Ansur Mandal, Ld. AGP

Mr. Tanweer J. Mandal

Ms. Somashree Dey

...for the State.

1. The affidavit-of-service as filed today on behalf of the writ petitioners is taken on record.
2. By filing the instant writ petition, the writ petitioners have prayed for issuance of appropriate writ/writs against the respondent no. 2/authority for setting aside and/or quashing the order dated 06.02.2025 whereby and whereunder the said respondent no. 2/authority while affirming the order dated 12.04.2023 as passed by the respondent no. 5/authority directed the respondent no. 3 to proceed with the provisions of Section 10 of the West Bengal Highways Act, 1964 (hereinafter referred to as 'the said Act of 1964' in short) for recovery of the possession and removal of the encroachment as made on the highway.
3. In course of hearing, Mr. Manna, learned advocate appearing on behalf of the writ petitioners submits before this Court that in respect of R.S. and L.R. Plot No. 314 in Mouza – Pajanpur under P.S. Bhagwanpur,

District – Purba Medinipur the writ petitioners are the recorded owners of four decimal of land out of 39 decimal which would be evident from the copy of the deed of purchase dated 21.10.2018 and from the LRROR as has been annexed with the writ petition. Drawing attention to Page No. 45 of the instant writ petition, it is submitted by Mr. Manna that from the said paper, it would reveal that on the application of the writ petitioners, permission was granted to change the character of land i.e., from ‘water body’ to ‘Bastu’.

4. It is submitted that from Page No. 64 of the instant writ petition, being a copy of the notice dated 27.07.2022 as issued by the respondent no. 8/authority, it would reveal that the respondent no. 8 had served a notice under Sections 15 and 57 of the West Bengal Land Reforms Act, 1955 (hereinafter referred to as ‘the said Act of 1955’ in short) for correction of the record of right and challenging such notice, a proceeding is pending before the West Bengal Land Reforms and Tenancy Tribunal.
5. Drawing attention to Page Nos. 70 and 71 of the instant writ petition, being a report dated 07.02.2023 as prepared by the respondent no. 8 and as submitted before the respondent no. 3, it would reveal that the said respondent no. 8 had practically prepared a faulty report showing alleged encroachment over acquired plot no. 314. It is submitted that in a proceeding under Section 10(3) of the said Act of 1964, the respondent no. 5/authority practically accepted the aforementioned

report of the respondent no. 6 as a gospel truth without looking into the right, title and interest of the writ petitioners over the said plot of land.

6. It is further submitted by Mr. Manna that by passing the order under challenge dated 06.02.2025, the respondent no. 2/authority must mechanically endorse the view as taken by the respondent no.5/authority without going into the merit of the said appeal as preferred by the writ petitioners.
7. It is further submitted by Mr. Manna that both the respondent no. 5 and the respondent no. 2 had failed to consider the relevant documents of title as well as of possession of the writ petitioners and for non-consideration of such material documents, the decision making process of the respondent no. 5 and respondent no. 2 have been vitiated for which interference of this Court in a judicial review is a must.
8. It is thus submitted by Mr. Manna that appropriate relief/reliefs must be granted to the writ petitioners in terms of the prayers made in the instant writ petition.
9. In course of his reply, Mr. Mandal, however, submits that in absence of any perversity, there cannot be any justification to interfere with the order which is under challenge before this Court.
10. This Court has meticulously gone through the entire materials as placed before this Court. This Court has given its due consideration over the submissions of the learned advocates for the contending parties.

11. On perusal of the report dated 07.02.2023 of the jurisdictional BL & LRO i.e., the respondent no. 8, it appears to this Court that the said jurisdictional BL & LRO after service of notice upon all the concerned made demarcation during field verification and in course of such field verification and demarcation, he has noticed encroachment over the P.W.D. road. It appears to this Court that the respondent no. 5/authority while disposing a case under the provisions under Section 10(3) of the said Act of 1964 after hearing all the parties and on perusal of the documents as placed before him directed for removal of the encroachment.
12. This Court has also gone through the order dated 06.02.2025 as passed by the respondent no. 2/authority in an appeal preferred by the writ petitioners. It appears to this Court that while passing the order under challenge dated 06.02.2025, the respondent no. 2 while upholding the order of the respondent no. 5/authority also considered the entire materials as placed before him and had given due opportunity of hearing both to the appellants and the respondents.
13. It thus appears to this Court that by no stretch of imagination it can be said that the respondent no. 2/authority has not followed the principles of natural justice. It further appears to this Court that the respondent no. 2/authority had also considered all the relevant documents more specifically, the field verification/demarcation report as prepared by the

jurisdictional BL & LRO i.e., the respondent no. 8 herein.

It thus appears to this Court that under no circumstances, it can be said that the finding of the respondent no. 2/authority is vitiated on account of consideration of some extraneous materials and/or on account of non-consideration of the relevant materials as available on record.

14. In course of his submission, Mr. Manna though submitted that the respondent no. 5 and respondent no. 2 authorities ought to have considered the valid title of the present writ petitioners over the plot of land on the basis of their title deed as well as the record of right as standing in the name of the writ petitioners, however, such argument in considered view of this Court is not at all impressive in view of the fact that sitting in a writ jurisdiction, this Court is not expected to act as an appellate court to come to a finding with regard to the alleged title of the writ petitioner.
15. In view of the discussion made hereinabove and in absence of any perversity in the order of the respondent no. 2/authority as well as in the order of the respondent no. 5/authority, this Court finds no scope at all for making interference in a judicial review as sought for.
16. With the aforementioned observations, the instant writ petition being **WPA 5152 of 2025** is dismissed.
17. Liberty is given to Mr. Mandal, learned advocate for the respondent/State to forward a server copy of this order

to the respondent no. 2 and respondent no. 5 authorities forthwith.

18. There shall, however, be no order as to costs.
19. Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance with all the necessary formalities.

(Partha Sarathi Sen, J.)

Later:

1. After passing of this order, Mr. Manna, learned advocate appearing on behalf of the writ petitioners prays for a limited stay of the operation of the instant writ petition.
2. Prayer for stay is considered and refused.

(Partha Sarathi Sen, J.)