

S/L 23
02.04.2025
Court. No. 236
Sourav

WPA 6374 of 2025

**Ajit Kumar Bera @ Ajit Bera
Vs.
The State of West Bengal & Ors.**

*Mr. Lakshmi Nath Bhattacharya
Mr. Rajib Kumar Acharyya
Mr. Arpan Bairagi*

...for the petitioner.

*Mr. Ayan Banerjee
Mr. Amritlal Chatterjee*

...for the State.

*Ms. Rekha Pramanik
Ms. Reshmi Hossain
Mr. M. Hossain
Mr. Rik Mukherji*

...for the respondent no. 9.

*Mr. Mrinal Kanti Ghosh
Mr. Kartik Chandra Kapas*

...for the respondent no. 11.

1. Affidavit-of-service as filed in Court today on behalf of the writ petitioner is taken on record.
2. At the time of hearing, Mr. Bhattacharya, learned Counsel appearing on behalf of the writ petitioner at the very outset draws attention of this Court to page no. 14 of the instant writ petition being a copy of the letter dated 03.03.2025 as written by the writ petitioner addressed to the respondent nos. 5 and 6.
3. It is submitted on behalf of the writ petitioner that in respect of LR Plot No. 1218 in Mouza – Sayla under P.S. Daspur, Dist – Paschim Medinipur, the private respondents have made some illegal and unauthorized constructions in front of the writ petitioner's land encroaching government land (PWD Road) where the

State Highway Gopiganj to Kalmijore has been constructed.

4. It is submitted that despite submission of the said letter dated 03.03.2025, the respondents/authorities more specifically, the respondent nos. 5 and 6 have taken no action against the private respondents.
5. While opposing such contention, Ms. Hossain, learned advocate appearing on behalf of the respondent no. 9 has filed a server copy of the order dated 11.01.2023 as passed by a co-ordinate Bench in WPA 27024 of 2022, a copy of the memo dated 13.09.2023 as issued by the respondent no. 5 and another server copy of the order dated 08.01.2024 as passed by a co-ordinate Bench in CPAN 1445 of 2024. It is submitted by Ms. Hossain that from the aforementioned three papers, it would reveal that pursuant to a direction passed by a co-ordinate Bench of this Court in an earlier round of litigation the respondent no. 5/authority after hearing the writ petitioner and the private respondents herein held thus:

“.....as it is found in spot inspection that near about 50 feet vacate in front of Plot no 1218 so the petitioner has no trouble to entry or exit.

(Annexure-III)

4. Till date 50 feet has cleared to entry or exit for the plot no. 1218 so need not any to demolish.”

6. It is submitted that the said co-ordinate Bench in the aforementioned contempt proceeding has accepted

such report and thus disposed of the said contempt proceeding. It is thus submitted by Ms. Hossain that the instant writ petition is frivolous and the same may be dismissed. It is submitted by her further that the instant writ petition is also barred under the principle of *res judicata*.

7. In course of his submission, Mr. Mahata, learned advocate appearing on behalf of the private respondent no. 10 echoes the version of Ms. Hossain. He also submits that the instant writ petition is liable to be dismissed.
8. In course of his reply, Mr. Bhattacharya draws attention of this Court to the provision of Section 10 of the West Bengal Highways Act, 1964 (hereinafter referred to as the 'said Act of 1964'). It is submitted by him that in the said memo dated 13.09.2023 as issued by the respondent no. 5 there is no whisper with regard to the encroachment as alleged by the writ petitioner.
9. On careful consideration of the entire materials as placed before this Court and after hearing the learned advocates for the contending parties, it appears to this Court that by a letter dated 03.03.2025, the writ petitioner had agitated before the respondent nos. 5 and 6 that the private respondents herein have encroached a substantial portion of the State Highway Gopiganj to Kalmijore, under P.S. Daspur, Dist- Paschim Medinipur.

10. Admittedly, on perusal of the papers as placed from the side of the private respondent no. 9, it reveals that pursuant to the order passed in WPA 27024 of 2022, the respondent no. 5 after giving an opportunity of hearing to all concerned came to a finding as has been quoted in the foregoing paragraph no. 5.
11. It thus reveals to this Court that the allegation of the writ petitioner regarding his obstruction with regard to the easy egress and ingress at the instance of the respondent nos. 9 and 10 has got no leg to stand upon and the same cannot be entertained. However, on conjoint perusal of the copy of the letter dated 03.03.2025 as has been annexed at page no. 14 of the instant writ petition together with the memo dated 13.09.2023 as issued by the respondent no. 5 it nowhere reveals that the said respondent no. 5 has come to a finding as to whether any portion of the State Highway Gopiganj to Kalmijore under P.S. Daspur, Dist- Paschim Medinipur has at all been encroached at the instance of the private respondents.
12. In view of such while disposing the instant writ petition, this Court directs the respondent no. 5 to cause an enquiry with regard to the allegation of the writ petitioner regarding encroachment of a portion of the aforementioned State Highway ensuring the presence of the writ petitioner and the private respondents and in the event, the respondent no. 5 finds that the allegation of encroachment of the State

Highway is found to be justified in course of enquiry, he is further directed to initiate a proceeding under the provision of Section 10 of the said Act of 1964 forthwith and to arrive at a logical conclusion of the same positively within three months from the initiation of the enquiry.

13. With the aforementioned observations, the instant writ petition being **WPA 6374 of 2025** is disposed of.
14. 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.)