

Item No.19
04.04.2025
Court. No. 236
GB

W.P.A. 6974 of 2025

Madan Singha & Ors.
Vs.
The State of West Bengal & Ors.

Mr. Kushal Chatterjee,
Mr. Shibjit Mitra

...for the Petitioners.

Mr. Chandi Charan De, Ld. A.G.P.,
Ms. Reshma Chatterjee

...for the State.

1. Affidavit-of-service as filed today 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 authorities, that is, the respondent nos.2 and 3 for consideration of the representation dated March 13, 2025.
3. In course of hearing learned advocate for the writ petitioners draws attention of this Court to page nos.73 to 75 being a copy of a letter dated March 13, 2025 as written by the writ petitioners addressed to the respondent no.2 authority requesting him to grant necessary permission/lease to carry on their business over L.R. Plot No.318/962 and 1360 which have been recorded as 'Nayanjuli'. At this juncture, learned advocate appearing on behalf of the writ petitioners draws attention of this Court to Section 8 of the West Bengal Highways Act, 1964 (hereinafter referred to as the 'said Act of 1964').
4. It is submitted that Section 8 of the said Act of 1964 envisages for permission to make encroachment. It is

submitted that since the writ petitioners are doing their small business over the land of P.W.D., the writ petitioners submitted such representation to regularize their encroachment on payment of regular fees or charges with an undertaking that the writ petitioners would vacate and deliver the khas and vacant possession of the said encroached portion to the respondent no.3 authority as and when called for.

5. On careful consideration of the entire materials as placed before this Court and after hearing the learned advocates for the contending parties, it reveals to this Court that Section 8 of the said Act of 1964 clearly postulates that prior to make an encroachment a person shall have to obtain a previous permission in writing of the highway authority.
6. On perusal of the entire materials as placed before this Court it reveals that the writ petitioners have practically admitted that they have already encroached the said 'Nayanjuli' which is a government land and is situated by the side of a highway. In considered view of this Court, in the event this Court allows the prayer of the writ petitioners that would be contrary to the provision of Section 8 of the said Act of 1964, in view of the fact that the writ petitioners have already encroached the government land and/or P.W.D. land without obtaining any sanction from the highway authority.

7. Thus, this Court finds no merit in the instant writ petition and the same is thus, dismissed.
8. However, there shall be no order as to costs.
9. Urgent Photostat certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Partha Sarathi Sen, J.)