

Item No.20
04.04.2025
Court. No. 236
GB

W.P.A. 7374 of 2025

Sandhya Rani Mahata
Vs.
The State of West Bengal & Ors.

*Mr. Bhagbat Chaudhuri,
Mr. Lal Ratan Mondal,
Mr. Dilip Kumar Sadhu,
Ms. Gopa Mainan*

...for the Petitioner.

*Mr. Ayan Banerjee,
Mr. Amritalal Chatterjee*

...for the State.

1. Affidavit-of-service as filed today is taken on record.
2. By filing the instant writ petition, the writ petitioner has prayed for issuance of appropriate writ/writs against the respondent authorities for cancellation of the notice dated March 18, 2025 as issued by the respondent no.5 authority under Section 10 of the West Bengal Highways Act, 1964 (hereinafter referred to as the 'said Act of 1964'), whereby and whereunder the said respondent no.5 authority directed the writ petitioner to remove the encroachment and to restore the highway to its original condition within a stipulated period, failing which the said respondent no.5 authority would start a proceeding under Section 10(2) of the said Act of 1964.
3. In course of his submission learned advocate appearing on behalf of the writ petitioner at the very outset draws attention of this Court to page no.42 of the instant writ petition being a copy of the letter dated October 30, 2024 as submitted by the writ

petitioner with the respondent no.6 herein. It is submitted that under cover of the said letter dated October 30, 2024 it has been averred by the writ petitioner that taking advantage of the absence of the writ petitioner, who is a widow lady, some people claiming themselves of the men and workmen of the P.W.D. authority made a demarcation over the property situated at Plot No.113 of Mouza - Lalgah.

4. At this stage, learned advocate for the writ petitioner draws attention of this Court to page nos.43 and 56 of the instant writ petition being copies of two orders as passed by a coordinate Bench of this Court, namely, order dated December 4, 2024 as passed in WPA 28211 of 2024 and the order dated January 2, 2025 as passed in WPA 29859 of 2024. It is submitted that from the said orders it would reveal that by the order dated December 4, 2024 the respondent authorities were directed to pass a reasoned order after giving an opportunity of hearing to the writ petitioner and by the said order dated January 2, 2025 the said coordinate Bench again directed the respondent authorities to cause physical inspection of the land in question securing the presence of the writ petitioner and thereafter to prepare an inspection report.
5. It is submitted that under cover of a purported inspection report, a copy of which has been annexed in the writ petition at page nos.59 and 60, the respondent authorities had made an attempt to

encroach the property of the writ petitioner without any basis. It is submitted further that the said enquiry report further reveals that the measurement as has been made by the respondent authorities are faulty and the said respondent authorities had failed to visualize that there was no bata plot like 135/673 as wrongly claimed and thus, the respondent authorities had practically made an attempt to encroach the property of the writ petitioner which is situated at Plot No.113.

6. Per contra, learned advocate for the respondent/State also places his reliance upon the copy of the report dated January 14, 2025 as submitted by the respondent no.7 authority. It is submitted on behalf of the State that from the said report it would reveal that the said respondent no.7 authority noticed encroachment over a bata plot no.135/673 and thus, from the said enquiry report it would reveal that the writ petitioner's plot no.113 was not all affected. Such contention is, however, opposed on behalf of the writ petitioner.
7. On careful consideration of the entire materials as placed before this Court it reveals that while submitting a report dated January 14, 2025 after enquiry in presence of the writ petitioner, the respondent no.7 authority noticed that the writ petitioner's property is situated at plot no.113. The said authority has also noticed that there was

encroachment by 7'5" over bata plot no.135/673. Though it is contended on behalf of the writ petitioner that the said bata plot no.135/673 has got no existence at all and the finding of the respondent no.7 authority regarding the alleged encroachment is faulty, this Court considers that being a writ court, this Court has got no machinery to come to a contrary finding as to whether the report dated January 14, 2025 as submitted by the respondent no.7 is correct or not, and the same is required to be adjudicated by trial on evidence. As rightly pointed out by the learned advocate for the respondent/State that since in the said report dated January 14, 2025 the respondent no.6 authority has not disputed the title of the writ petitioner over plot no.113 in Mouza – Lalgarrh, there cannot be any justification to interfere with the said enquiry report which depicts encroachment over bata plot no.135/673 which admittedly does not belong to the writ petitioner.

8. In view of the discussions made hereinabove, this Court finds that no interference is called for with regard to the notice dated March 18, 2025 as has been issued pursuant to the said enquiry report of the respondent no.6. It further appears to this Court that in the event the writ petitioner finds herself aggrieved with the finding of the highway authority under Section 10(2) of the said Act of 1964, she has every right to prefer an appeal under Section 10(4) of the

said Act of 1964. This Court, thus, finds that the writ petitioner is not still remediless.

9. Accordingly, the writ petition is dismissed.
10. However, there shall be no order as to costs.
11. 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.)