

S/L 7
10.04.2025
Court. No. 236
Sourav

WPA 8305 of 2025

**Mahadeb Mondal
Vs.
State of West Bengal & Ors.**

*Mr. Biswaroop Bhattacharya
Mr. Avirup Chatterjee
Mr. Rishov Das*

...for the petitioner.

*Mr. Chandi Charan De, Ld. AGP
Mr. Anirban Sarkar*

...for the State.

1. The affidavit-of-service as filed in Court today is taken on record.
2. At the very outset, Mr. Bhattacharya, learned advocate appearing on behalf of the writ petitioner candidly submits before this Court that though a notice upon the private respondent no. 7 was sent under Speed Post but the Postal Track Report showing service upon the respondent no. 7 has not been received. It is further submitted by Mr. Bhattacharya that under a compelling circumstances, the writ petitioner approached before this Court since the writ petitioner is under apprehension that at any moment, the writ petitioner may be evicted from the portion occupied by him pursuant to the order passed by the Executive Magistrate on 21.03.2025 in Case No. 03/Eviction/HW/SDO/DH of 2024-25.
3. In his next limb of submission, Mr. Bhattacharya draws attention of this Court to Page Nos. 66 to 82 of the instant writ petition being a copy of the memo of appeal

as has been filed under Section 10(4) of the West Bengal Highways Act, 1964 (hereinafter referred to as 'the said Act of 1964'). It is submitted before this Court that in the said appeal an interim protection was also prayed for but as on this day, the said appeal was not taken up for consideration and thus, no interim order has been passed by the District Magistrate, South 24 Parganas as prayed for by him.

4. This Court has heard Mr. De, learned AGP appearing for the respondent/State and its functionaries. In considered view of this Court that in the event, the appeal as well as the prayer for interim stay as prayed for by the present writ petitioner before the District Magistrate, South 24 Parganas is not heard out, there is an apprehension that the writ petitioner would be affected in terms of the order dated 21.03.2025 as passed by Executive Magistrate, Diamond Harbour, South 24 Parganas.
5. This Court further considers that in the event, the interim order as prayed for is not passed, the very purpose of filing the appeal before the District Magistrate under Section 10(4) of the said Act of 1964 would become infructuous.
6. In view of such, while disposing the instant writ petition, this Court directs that till disposal of the appeal before the District Magistrate, South 24 Parganas, there shall be a stay upon the order no. 6 dated 21.03.2025 as passed by the Executive

Magistrate, Diamond Harbour, as per the provisions of the said Act of 1964 in Case No. 03/Eviction/HW/SDO/DH of 2024-25.

7. It is further directed that the District Magistrate, South 24 Parganas shall dispose of the appeal of the present writ petitioner within three months from the date of communication of this order. It is further directed that the present writ petitioner shall appear before the District Magistrate, South 24 Parganas on April 25, 2025 at 2.00 p.m. positively in connection with the aforementioned appeal.
8. The learned advocate for the writ petitioner is hereby requested to communicate the server copy of this order to the respondent no. 2 i.e., the District Magistrate, South 24 Parganas for his information and compliance.
9. The writ petitioner is also directed to communicate the server copy of this order to the private respondent no. 7 forthwith by Speed Post.
10. The District Magistrate, South 24 Parganas is further directed to ensure the appearance of the writ petitioner and the private respondent no. 7 on a subsequent date and, thereafter, shall proceed with the hearing of the said appeal in accordance with law.
11. Liberty is given to the private respondent no. 7 also to appear before the District Magistrate, South 24 Parganas on April 25, 2025 at 2.00 p.m.
12. With the aforementioned observations, the instant writ petition being **WPA 8305 of 2025** is disposed of.

13. 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.)