

S/L 5
19.09.2025
Court. No. 19
Sourav

WPA 8576 of 2025

**Biswajit Gayen
Vs.
The State of West Bengal & Ors.**

*Mr. Golam Mastafa
Mr. Tarasankar Samanta*

...for the petitioner.

*Mr. Lalit Mohan Mahata, Ld. AGP
Mr. Prasanta Behari Mahata*

...for the State.

*Mr. Anupam Kr. Bhattacharya
Mr. Somnath Naskar
Mr. Rohan Shaw*

...for the private respondent nos. 8 and 9.

1. The writ petitioner, the respondent/State and the private respondent nos. 8 and 9 are represented by their respective learned advocates.
2. At the time of hearing, Mr. Mastafa, learned advocate appearing on behalf of the writ petitioner submits before this Court that it is the specific case of the writ petitioner that he is the absolute owner of the property, particulars of which has been mentioned in paragraph no. 2 of the instant writ petition.
3. It is submitted by Mr. Mastafa that it is the grievance of the writ petitioner that the private respondent nos. 8 to 10 have encroached a portion of P.W.D. land which is situated in front of the writ petitioner's property causing thereby obstruction to the free egress and ingress to the writ petitioner's property.
4. Drawing attention to Page No. 26 of the instant writ petition, being a copy of the representation dated

20.03.2025, it is submitted by Mr. Mastafa that despite submission of such representation with the respondent no. 5/authority, nothing has been done. It is thus submitted by Mr. Mastafa that appropriate relief/reliefs may be granted to the writ petitioner in terms of the prayers of the instant writ petition.

5. Mr. Mahata, learned Additional Government Pleader appearing on behalf of the respondent/State and its instrumentalities in his usual fairness submits before this Court that the respondent no. 5/authority may be directed to consider the representation dated 20.03.2025 in accordance with law.
6. Such contention is vehemently opposed by Mr. Bhattacharya, learned advocate appearing on behalf of the private respondents by saying that the subject matter as involved in the instant writ petition is a private dispute between the writ petitioner and the private respondents and, therefore, the writ petitioner has wrongly invoked the writ jurisdiction of this Court. It is further submitted by Mr. Bhattacharya that for proper adjudication of the instant writ petition, exchange of affidavits are must.
7. Upon careful consideration of the entire materials as placed before this Court and after hearing the learned advocates for the contending parties, this Court considers that the instant writ petition can be disposed of without exchange of affidavits.
8. In view of such, this Court while disposing the instant writ petition directs the respondent no. 6/authority to

make a field verification at the disputed plot after causing prior service of notice upon the writ petitioner and the private respondent nos. 8 to 10 and soon thereafter, he shall submit his demarcation report with the respondent no. 5/authority within 30 working days from the date of communication of the server copy of this order.

9. The respondent no. 5/authority on receipt of such demarcation report from the respondent no. 6/authority shall also cause service of notice upon the writ petitioner and the private respondents and shall provide them copies of the demarcation report.
10. The respondent no. 5/authority is further directed to consider the representation dated 20.03.2025 as submitted by the writ petitioner in accordance with law in the light of the demarcation report as would be submitted by the respondent no. 6/authority and after giving fair chance of hearing both to the writ petitioner and the private respondents and/or their authorized representative shall pass a reasoned order and shall forthwith communicate the same both to the writ petitioner and the private respondents preferably by email, if the email details of the writ petitioner and the private respondents are provided to him at the time of hearing.
11. The entire exercise as indicated in the foregoing paragraphs is to be completed by the respondent no. 5/authority within 45 working days from the date of

receipt of the demarcation report from the respondent no. 6/authority.

12. Liberty is given to the learned advocate on record for the writ petitioners to communicate the server copy of this order to the respondent no. 5 and 6/authorities forthwith.
13. The respondent no. 5 and 6/authorities are hereby directed to act on the basis of the server copy of this order.
14. The time limits as fixed by this Court are mandatory and peremptory.
15. With the aforementioned observations, the instant writ petition being **WPA 8576 of 2025** is disposed of.
16. Before parting with, it is further made clear that in the event while passing the reasoned order, the respondent no. 5/authority finds sufficient justification in the representation dated 20.03.2025 as submitted by the writ petitioner, the respondent no. 5/authority is directed to initiate a proceeding under Section 10 of the West Bengal Highways Act, 1964 forthwith for removal of encroachers, if there be any.
17. 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.)