

S/L 89
23.06.2025
Court. No. 19
Sourav

WPA 8857 of 2025

Ainul Mallick
Vs.
The State of West Bengal & Ors.

Mr. Rajib Kumar Acharyya
Mr. Banshi Badan Maity

...for the petitioner.

Mr. Soumitra Bandyapadhyay, Sr. Govt. Adv.
Mr. Priyabrata Batabyal

...for the State.

1. The affidavit-of-service as filed today on behalf of the writ petitioner is taken on record.
2. At the time of hearing, learned advocate for the writ petitioner at the very outset draws attention of this Court to paragraph no. 4 of the instant writ petition.
3. It is submitted that it is the specific case of the writ petitioner that the writ petitioner is the absolute owner of the property, particulars of which has been mentioned in paragraph no. 4 of the instant writ petition.
4. It is further submitted on behalf of the writ petitioner that the private respondent by encroaching P.W.D. road has raised an illegal construction in front of the aforementioned plot of land of the writ petitioner causing thereby serious obstruction regarding free egress and ingress to the said property by the writ petitioner and his family members.
5. Drawing attention to Page Nos. 14 and 15 of the instant writ petition, it is submitted by the learned advocate for the writ petitioner that factum of such encroachment was brought to the notice of the respondents/authorities, more

specifically, the respondent nos. 5 and 6 but the said respondents practically did nothing and sat tight over the matter.

6. Mr. Bandyapadhyay, learned senior government advocate appearing on behalf of the respondent/State and its functionaries in his usual fairness submits before this Court that an appropriate order may be passed directing the respondent no. 6/authority to consider the representation dated 28.03.2024 of the writ petitioner in accordance with law.
7. Considering the entire materials as placed before this Court and after hearing the learned advocates for the contending parties, this Court while disposing the instant writ petition, directs the respondent no. 7/authority to make a field enquiry after securing prior service of notice upon the writ petitioner and private respondent no. 9 and to submit a demarcation report and/or field verification report with the respondent no. 6/authority positively within 30 working days from the date of communication of the server copy of this order.
8. The respondent no. 6/authority on receipt of the demarcation report from the respondent no. 7/authority shall cause service of notice upon the writ petitioner and private respondent and also provide them the copies of such demarcation report.
9. The respondent no. 6/authority is further directed to consider the representation of the writ petitioner dated 28.03.2024 in the light of the said demarcation report and/or field verification report and after giving an

opportunity of hearing both to the writ petitioner as well as to the private respondents and/or their authorized representatives shall pass a reasoned order and shall forthwith communicate the same both to the writ petitioner and the private respondents preferably by mail, if the mail details of the writ petitioner and the private respondent no. 9 are furnished to him at the time of hearing.

10. The entire exercise as indicated in the foregoing paragraph is to be completed by the respondent no. 6/authority within 60 working days from the date of receipt of the demarcation report from the respondent no. 7/authority.
11. The time limits as fixed by this Court are mandatory and peremptory.
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 nos. 6 and 7/authorities for their immediate compliance.
13. The respondent nos. 6 and 7/authorities are hereby directed to act on the server copy of this order.
14. Before parting with, it is, however, made clear that since the affidavits have not been called for, the allegations made in the instant writ petition are deemed to have been denied. It is also made it clear that in the event, the respondent no. 6 finds sufficient merit in the representation of the writ petitioner while passing the reasoned order, he shall forthwith initiate a proceeding under Section 10 of the West Bengal Highways Act, 1964 against the encroacher, if therebe any.

15. With the aforementioned observation, the instant writ petition being **WPA 8857 of 2025** is disposed of.
16. 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.)