

Item No.8
16.05.2025
Court. No. 19
GB

W.P.A. 10034 of 2024

Bidyut Kumar Sardar
Vs.
The State of West Bengal & Ors.

Mr. Anindya Lahiri,
Ms. Pranati Das

...for the Petitioner.

Mr. Asish Kumar Guha,
Mr. Benazir Ahmed

...for the State.

Mr. Sayak Chakraborti,
Mr. Wrickbrata Roy,
Mr. S. Chatterjee,
Mr. Iswar Das,
Mr. Nistar Molla

...for the Respondent No.11.

1. The affidavit-of-service as filed today is taken on record.
2. This Court has heard the learned advocate for the writ petitioner, learned advocate for the respondent State and the learned advocate for the respondent no.11 at length.
3. In course of hearing, learned advocate appearing on behalf of the respondent State has submitted a report prepared by the O.C., Kalitala Ashuti Police Station dated 02.05.2024. Let the report dated 02.05.2024 be taken on record.
4. By filing the instant writ petition the writ petitioner has prayed for issuance of appropriate writ/writs against the respondent authorities for taking appropriate action for removal of the encroachment as alleged to be made by the private respondent no.11 over Plot No.1420 which is a government road and

which is contiguous to the land of the writ petitioner being Plot No.1255 under Khatian No.3667 in Mouza-Rameswarpur, District – South 24 Parganas.

5. In course of hearing, learned advocate for the writ petitioner draws attention of this Court to page no.16 of the instant writ petition, being a copy of the relevant mouza map. It is submitted that on comparative study of the said mouza map vis a vis the photographs as have been annexed at page no.21 of the instant writ petition, it would reveal that it is the grievance of the writ petition that the private respondent no.11 had constructed a building contiguous to the land of the writ petitioner by encroaching a pathway (government road) being Plot No.1420, which is, however, strongly disputed by the learned advocate for the private respondent no.11.
6. It is, thus, submitted by the learned advocate for the writ petitioner that since the Plot No.1420 is a 'government road' within the meaning of Section 2(bb) of the West Bengal Highways Act, 1964 (hereinafter referred to as the 'said Act of 1964' in short) and comes under the purview of the definition 'highway' within the meaning of Section 2(c) of the said Act of 1964, appropriate relief or reliefs may be granted to the writ petitioner by directing the respondent no.9 to initiate a proceeding under Section 10 of the said Act of 1964.
7. Mr. Guha, learned advocate appearing on behalf of the respondent State draws attention of this Court to page

no.5 of the report dated 02.05.2024 as submitted today. It is submitted by the learned advocate for the respondent State that from page no.5 of the said report it would reveal that the jurisdictional Block Land and Land Reforms Officer under cover of his letter dated 25.04.2024 addressed to the respondent no.8 clearly indicated that L.R. Plot No.1420 in Mouza – Remeswarpur is classified as ‘Rasta’ (road) and presently the classification of the said plot is partly ‘Nayanjuli’ and partly ‘Rasta’, which is at present recorded in the name of the Jagtala Union Board.

8. 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 it is undisputed that L.R. Plot No.1420 in the aforementioned mouza is a ‘government road’ within the meaning of Section 2(bb) of the said Act of 1964 and, therefore, the said Plot No.1420 squarely comes under the purview of ‘highway’ within the meaning of Section 2(c) of the said Act of 1964.
9. At this juncture, I propose to look to the provision of Section 8 of the said Act of 1964 which reads as under:-

“8(1) No person shall make any encroachment without obtaining previous permission in writing of the Highway Authority or any officer not below the rank of an Assistant Engineer authorized by him in this behalf.

(2)

(3)”

10. Keeping in mind the aforementioned legislative provisions, if I once again look to the page no.5 of the report as submitted on behalf of the respondent State, it reveals that it is the categorical finding of the jurisdictional Block Land and Land Reforms Officer that a construction has been made over L.R. Plot No.1420 in the aforementioned mouza which definitely comes under the purview of 'government road' as well as the highway authority.
11. In view of such, while disposing the instant writ petition, this Court directs the respondent no.9 to initiate a proceeding under Section 10 of the said Act of 1964 either by himself or by any officer authorized by him in his behalf by serving due notice to the respondent no.11 and/or any other person or persons as he may deem fit and proper, for removal of the encroachment and restoration of the 'highway' and/or 'government road' to its original condition within a stipulated period.
12. It is further made clear that in the event the encroachers fail to comply with the requisition of the said notice as it would be issued under Section 10(1) of the said Act of 1964, the respondent no.9 and/or any officer as would be authorized by him shall proceed in accordance with the provisions of Sections 10(2) and (3) of the said Act of 1964 soon thereafter.
13. The entire exercise as indicated in the foregoing paragraphs is to be completed within 90 working days

from the date of communication of the server copy of this order.

14. Liberty is given to the learned advocate on record for the writ petitioner to communicate the server copy of this order to the respondent no.9 for his immediate compliance.
15. The respondent no.9 is directed to act on the server copy of this order.
16. With the aforementioned observations the writ petition being WPA 10034 of 2024 is disposed of.
17. 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.)