

Court No. 19

(265719)

11.11.2025

(AD 19)

(S. Banerjee)

WPA 9484 of 2025

Papia Das

Vs.

The State of West Bengal & Ors.

Mr. Pankaj Halder
Mr. Bidish Ghosh
Mr. Nilabha Bera
Mr. Tapas Kumar Manna

...for the petitioner

Mr. Mrinal Kanti Ghosh
Mr. Pradip Paul

...for the State

The petitioner claims to be the recorded owner of LR Plot No. 137 within Mouza – Alambibi, Ramnagar under Falta Police Station in the district of South 24 Parganas.

The petitioner states that Dostipur to Digirpar Road which is a PWD road, is adjacent to the aforesaid plot of the petitioner. The petitioner alleges that the private respondent nos. 8 and 11 have made an unauthorized construction on the PWD roads thereby obstructing the ingress and egress of the petitioner from his property to the PWD road. The petitioner claims to have submitted a representation before the Assistant Engineer, PWD, Diamond Harbour Sub-Division, being the 5th respondent.

Learned advocate appearing for the petitioner submits that in spite of receipt of such representation, no steps have been taken by the 5th respondent till date.

Mr. Ghosh learned advocate, appears for the State. He submits that some time may be afforded to the concerned respondent to take steps in accordance with law.

Heard the learned advocates for the respective parties and perused the materials placed.

Section 10 of the West Bengal Highways Act, 1964 ('the 1964 Act', for short) states that if any person is found to have made an encroachment on any road, street, path, way or land which is declared to be a highway under sub-Section (1) of Section 3 or makes an encroachment on a highway in contravention of the provisions of Section 8 or does not remove an encroachment on the expiry or cancellation of any permit granted to him, the Highway authority or any officer authorized by him in this behalf shall serve a notice on him requiring him to remove the encroachment and restore the highway to its original condition within the period specified in the notice. Sub-Section (2) of Section 10 states that if the encroachment is not removed within the time specified in the notice, the Highway Authority or the

officer authorized under sub-Section (1) may make an application to an Executive Magistrate, having jurisdiction over the area, not being the District Magistrate, for removal of the encroachment and delivery of possession of the land encroached upon to the Highway Authority or such officer.

In the case on hand the petitioner has alleged that the State Highway has been encroached upon and a representation has been submitted before the officer authorized under Section 10(1) of the 1964 Act. The concerned authority is under statutory obligation to ascertain as to whether there has been any encroachment on the highway and if it is found that there has been an encroachment on the highway, to direct removal of such encroachment within the time specified in the notice.

Affidavit of service filed in Court today, is taken on record. In spite of service none appears for the private respondents.

In the light of the submissions made by the learned advocates appearing for the respective parties, this writ petition stands disposed of by directing the Assistant Engineer, PWD, Diamond Harbour Sub-Division, being the 5th respondent, to initiate a proceeding in terms of Section 10(1) of the

1964 Act and, if it is found, that there has been an encroachment, to take steps in accordance with sub-Section (2) of Section 10 of the Act. The entire exercise shall be completed by the 5th respondent within a period of four weeks from the date of receipt of a server copy of this order along with a copy of the representation dated April 15, 2025 which is annexed at page 15 of the writ petition.

The report filed by the Officer in Charge of Falta Police Station is taken on record.

(Hiranmay Bhattacharyya, J.)