

S/L 5
27.10.2025
Court. No. 19
Suvayan

WPA 12734 of 2024

**Mohan Naskar
Vs.
The State of West Bengal & Ors.**

*Mr. Bapin Baidya
Mr. Sandipan Maity*

...for the petitioner.

*Mr. Asish Kumar Guha
Mr. Anirban Datta*

...for the State.

1. The affidavit-of-service as filed today on behalf of the writ petitioner is taken on record.
2. Mr. Maity, learned Advocate appearing on behalf of the writ petitioner at the very outset submits before this Court that notice upon the private respondent no. 7 was duly sent on 21.06.2024 by speed post, however, the postal envelope containing such notice along with the copy of the instant writ petition was not received back by the writ petitioner and, therefore, a presumption may be drawn regarding service upon the respondent no. 7.
3. It is further submitted by Mr. Maity that with the affidavit-of-service he could not file the postal track report since the same is not traceable from the relevant website.
4. On careful perusal of the entire materials as placed before this Court, this Court finds sufficient merit in the submission of Mr. Maity regarding service upon the private respondent no. 7 and as such service upon the private respondent no. 7 is accepted as due service.

5. None appears on behalf of the private respondent no. 7 despite service, however, the writ petitioner and the respondents/State are duly represented by their respective Counsels.
6. By filing the instant writ petition the writ petitioner has prayed for issuance of appropriate writ/writs against the respondents/authorities more specifically against the respondent no. 5/authority commanding him to take appropriate steps in terms of the provisions of West Bengal Highways Act, 1964 (hereinafter referred to as the 'said Act' in short) for removal of the unauthorized construction over PWD road in front of the writ petitioner's property particulars of which has been stated in paragraph no. 2 of the instant writ petition.
7. It is submitted by Mr. Maity that it is the specific case of the writ petitioner that on account of such illegal construction over the PWD land in front of the writ petitioner's property at the instance of the private respondent no. 7 the writ petitioner is facing extreme difficulty in getting easy access to his property particulars of which has been mentioned in paragraph no. 2 of the instant writ petition.
8. In course of his submission Mr. Maity took me to page nos. 30 and 31 of the instant writ petition being a copy of the representation dated 05.04.2024 with the respondent nos. 4 and 5/authorities, however, according to Mr. Maity no action has been taken as yet.

9. Mr. Maity thus submits that it is a fit case for granting appropriate relief/reliefs as prayed for in the instant writ petition.
10. Mr. Datta, learned Advocate duly led by Mr. Guha, learned Advocate appearing on behalf of the respondents/State in his usual fairness submits before this Court that the respondent no. 5/authority may be directed to act in accordance with law.
11. On careful consideration of the entire materials and after hearing the learned Advocates for the contending parties this Court while disposing the instant writ petition directs the jurisdictional BL&LRO to make a field verification after prior service of notice to the writ petitioner and the private respondent no. 7 at the disputed plot and to prepare a filed verification report and/or demarcation report and to submit the same with the respondent no. 5/authority positively within 30 working days from the date of communication of the server copy of this order.
12. The respondent no. 5/authority on receipt of such field verification report and/or demarcation report from the jurisdictional BL&LRO shall cause service of notice upon the writ petitioner and the private respondent no. 7 and shall provide them copies of the said field verification report and/or demarcation report.
13. The respondent no. 5/authority is further directed to give a fair chance of hearing both to the writ petitioner and the private respondent no. 7 and/or their authorized representatives and shall pass a reasoned order on the

representation dated 05.04.2024 as submitted by the writ petitioner in the light of the demarcation report and/or field verification report as would be submitted by the jurisdictional BL&LRO and shall forthwith communicate the same to the writ petitioner and the private respondent no. 7, preferably by email, if the email details of the writ petitioner and the private respondent no. 7 are provided to him at the time of hearing.

14. The entire exercise as indicated in the foregoing paragraph is to be completed by the respondent no. 5/authority within 45 working days from the date of receipt of the field verification and/or demarcation report from the jurisdictional BL&LRO.
15. The time limits as fixed by this Court are mandatory and peremptory.
16. Liberty is given to the learned Advocate-on-Record for the writ petitioner to communicate the server copies of this order to the jurisdictional BL&LRO and the respondent no. 5/authority for their immediate compliance.
17. The jurisdictional BL&LRO and the respondent no. 5/authority are hereby directed to act on the server copy of this order.
18. For abundant precaution the learned Advocate-on-Record for the writ petitioner is further directed to communicate the server copy of this order to the respondent no. 3/authority who in turn forward such

server copy of this order to the jurisdictional BL&LRO for his immediate compliance.

19. Before parting with, it is further made clear that in the event which passing the reasoned order the respondent no. 5/authority finds sufficient justification in the representation dated 05.04.2024 as submitted by the writ petitioner he shall forthwith initiate proceeding under Section 10(1) of the said Act for removal of the encroachment over the PWD land.
20. With the aforementioned observation, the instant writ petition being WPA 12734 of 2024 is disposed of.
21. 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.)