

Item No.15
25.06.2025
Court. No. 19
GB

W.P.A. 13721 of 2025

Tamjid Hossain Khan & Ors.
Vs.
The State of West Bengal & Ors.

Mr. Partha Pratim Roy,
Mr. Anirban Das

...for the Petitioners.

Mr. Ashim Kumar Ganguly,
Mr. Tarak Karan

...for the State.

Mr. Debojyoti Deb,
Mr. Tamal Ghosh

...for the Respondent No.9.

1. By filing the instant writ petition the writ petitioners have prayed for issuance of appropriate writ/writs against the respondent authorities for quashing of the order dated 02.04.2025 as passed by the District Magistrate, South 24 Parganas in a proceeding under Section 10(4) of the West Bengal Highways Act, 1964 (hereinafter referred to as the 'said Act of 1964').
2. By the order under challenge the said District Magistrate dismissed the appeal as preferred by the present writ petitioners.
3. At the time of hearing, Mr. Roy, learned advocate appearing on behalf of the writ petitioners submits before this Court that while passing the order under challenge dated 02.04.2025, the said District Magistrate has failed to visualize that the jurisdictional Assistant Engineer while dealing with the proceeding under Section 10(1) of the said Act of 1964 had miserably failed to visualize that the jurisdictional BL & LRO prepared a demarcation

report not on the basis of LA map as the same was not available before him. It is, thus, submitted by Mr. Roy that in absence of LA map, the jurisdictional BL & LRO ought not to have come to a finding with regard to the acquisition of land by the PWD and, therefore, the alleged encroachment by the present writ petitioners over Plot No.3453 ought to have been held faulty.

4. Such contention is opposed by Mr. Ganguly, learned advocate appearing on behalf of the respondent State and Mr. Deb, learned advocate appearing on behalf of the private respondents. It is argued by them that from the materials as placed before this Court it would reveal that Plot No.3453 is recorded in Khatian No.1 and is classified as 'Rasta'. It is further submitted by them that on account of availability of LR mouza map there cannot be any necessity for looking to LA map, as wrongly argued on behalf of the writ petitioners.
5. 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 in the proceedings under Section 10(2) and under Section 10(3) of the said Act of 1964, the jurisdictional Assistant Engineer and the jurisdictional Sub-Divisional Officer came to their factual findings on the basis of the demarcation report of the jurisdictional BL & LRO that the present writ petitioners have made encroachment over Plot

No.3453, which is situated in front of Plot No.3610 which is a rayati land and is in occupation of the private respondents. The said two authorities found no difficulty to place their reliance upon such demarcation report since such demarcation report as made by the jurisdictional BL & LRO is based on current LR RoR as well as LR mouza map.

6. The District Magistrate, South 24 Parganas who has not been made respondent in the instant writ petition found no cogent reason to interfere with the orders of the jurisdictional Assistant Engineer and the jurisdictional Sub-Divisional Officer while passing the order under challenge.
7. It appears to this Court that sitting in a judicial review this Court should not interfere with the order dated 02.04.2025 as passed by the District Magistrate, South 24 Parganas in absence of any perversity and/or in absence of any cogent materials to show that the findings of the respondent authorities have been vitiated for non-consideration of the relevant materials placed before them.
8. It is trite law that sitting in a judicial review a writ Court is not supposed to re-weigh the evidence as recorded by the authorities like an appellate court. This Court, thus, considers that the instant writ petition is devoid of any merit and is hereby dismissed.

9. Liberty is given to the learned advocate for the private respondents to communicate either the server copy of this order or the gist of this order to the District Magistrate, South 24 Parganas, the respondent nos.4 and 5 forthwith.
10. 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.)