

26.6. 2025
item No.8
n.b.
ct. no. 24

WPA 14434 of 2022

Sri Anil Kumar Middey
Vs.
The State of West Bengal & Ors.

Mr. Nilanjan Adhikari,
Mr. Koushik Chatterjee,
Ms. Oindrila Sinha,,
..... for the petitioner.

Mr. Bibek Jyoti Basu,
Mr. Uttam Kumar De,
Mr. Debjyoti Kar,
.... For the State.

Ms. Juin Dutta Chakraborty,
Mr. Bidan Modak,
Ms. Arpita Kundu,
..... for the respondent No.5.

Petitioenr is the recorded owner of plot number
597 of Mouza Dalsalap under P.S. Uluberia, District
Howrah.

It is the contention of the petitioner that private
respondent nos.5 & 6 has encroached the Government
land belonging to the PWD and made a construction
therein. By such, the same portion of the land of the
petitioner has also been encroached. He made a
detailed representation to the concerned Chief
Engineer(respondent no.2) PWD but his representation
was not considered. Hence this writ petition.

Learned counsel appearing on behalf of the private
respondent submits that the petitioner has also
approached before a Civil Court by filing civil suit
seeking injunction thereon against the private

respondent. The learned Civil Judge concerned did not issue the order of injunction. Petitioner on the same self issue filed the instant writ petition. Learned counsel appearing on behalf of the respondent authority submits with written instruction that Assistant Engineer, Uluberia Highway Sub-Division Public Works(Road) Department has already taken note of the representation and one enquiry was made by the concerned BL & LRO, Uluberia, who inspect of disputed land in question. On the strength of such enquiry, a memo was forwarded to the Sub-Division Officer, Uluberia Sub-division vide memo dated 22.2.2023.

Learned counsel for the respondent authority placed the memo. For proper determination of this matter, the memo is set out as follows:-

“Sub: Request for Removal of Encroachment under Section 10(2) of the West Bengal Highways Act. 1964.

Ref: (i) Order passed by the Hon'ble High Court at Calcutta on 12.7.2022 i.e.w W.P. WPA 14434 of 2022 of Anil Kumar Middey.

(ii) Notice under Section 10(1) of the West Bengal Highways Act, 1964 vide memo no.565/WPA 14434 of 2022 date 01.12.2022.

(iii) Demarcation report of B. L. & LRO Uluberia-I

Sir,

As per report received by the B.L & LRO Uluberia-I mentioned under reference (iii), it has been observed that Narayan Chandra Middey, S/O Late Sudhi Middey Vill & P.O. Bishibpur. P.S. Uluberia, Howrah. 711316 has made a permanent structure encroaching Government land on L.R. Plot no.597. R.S. Plot No.:568, R.S Khatian No. 186,291,600, LR. Khatian No:5/1,1234, J.L. No.48, Mouza : Dalsalap, P.S.: Uluberia along with Mahaeshpur- Birshibpur- Hatgachia – Boaliaghat Road. As a result he has been liable to prosecution as per the West Bengal Highways Act, 1964. A notice under Section 10(1) of the West Bengal Highways Act, 1964, had been

issued to the encroachers vide memo mentioned under reference (ii). But the encroacher, has failed to remove the encroachment from Government with stipulated notice period given to them.

Hence you are hereby requested to take necessary action as per section 10(2) of the West Bengal Highways Act. 1964, and deliver the possession of the alleged land to the undersigned.”

Learned counsel for the respondent authority concerned has further submits that a respondent authority has taken initiative on the basis of the representation of the petitioner, nothing left in the writ petition to decide.

Learned counsel appearing on behalf of the private respondent submits no notice has been serve upon the private respondent before making any enquiry or inspection over the plot of land. He further submits that the concerned BL & LRO has already submitted a report before Executive Mamagistrate in terms of a proceeding under Section 144(2) of the Code of Criminal Procedure showing that the private respondent are in a position over the plot land.

Having heard learned counsel for the parties, it appears that the grievances of the petitioner is non consideration of his representation made to the Chief Engineer, PWD(Road) Department. It appears from the memo, aas placed by the learned counsel for the respondent authority, that the concerned Assistant Engineer of the Department of PWD(Roads) has already

initiated a proceeding and referred the same to the Sub-Division Officer, Uliberia Sub-Division.

Considering the conduct and action taken by the Assistant Engineer, PWD(Roads), Uliberia Highway Sub-Division, it appears that the grievances of the petitioner has already been ventilated to the upper authority referring necessary proceeding, thus, then left nothing to decide this writ petition.

It is clarified that the petitioner as well as the private respondent has their remedy before the appropriate authority according to law in respect of proceeding initiated by the respondent authority as forwarded the same to the Sub-Division Officer. At the same time, the private respondent has the remedy in law to challenge the proceeding before the appropriate forum.

Considering the same, the instant writ petition is disposed of.

It is further clarified that if the proceeding has already been initiated and referred to the Sub-Division Officer, the concerned Sub-Division Officer shall disposed of the proceeding in a time bound manner as enumeraated in the law itself after giving reasonable opportunity of being heard to the parties concerned.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Subhendu Samanta, J.)