

S/L 3
15.07.2025
Court. No. 19
Sourav

WPA 14278 of 2025

**Nripen Chandra Jana
Vs.
State of West Bengal & Ors.**

Mr. Sk. Rejaul Alam

...for the petitioner.

Mr. Ayan Banerjee

Mr. Amrita Lal Chatterjee

...for the State.

Mr. Md. Aasif Iqbal

...for the private respondent no. 9.

1. The affidavit-of-service as filed in Court today is taken on record.
2. On behalf of the respondent/State, a memo dated 09.07.2025 as prepared by the respondent no. 4 is submitted and the same is taken on record.
3. The subject matter of challenge in the instant writ petition is the order dated 29.05.2025 as passed by the respondent no. 2/authority in an appeal under Section 10(4) of the West Bengal Highways Act, 1964 (hereinafter referred to as 'the said Act of 1964' in short) as well as the notice dated 25.06.2025 as issued by the respondent no. 5/authority whereby and whereunder the respondent no. 5/authority intimated the writ petitioner that he would evict the writ petitioner from the encroached portion of the PWD Roads pursuant to the dismissal of appeal vide order dated 29.05.2025 as passed by the respondent no. 2/authority.

4. In course of hearing, Mr. Alam, learned advocate appearing on behalf of the writ petitioner at the very outset draws attention of this Court to Page No. 16 of the instant writ petition being a copy of RS & ROR in respect of various plots of land including Plot No. 604. It is submitted that from the said copy of RS & ROR, it would reveal that 83 decimal of land in Plot No. 604 was recorded in the name of one Anil and others.
5. In course of his argument, Mr. Alam further draws attention of this Court to Page No. 19, being the latest information of the LR & ROR in respect of LR Plot No. 604 wherefrom it reveals that the measurement of L.R. Plot No. 604 is 0.58 decimal.
6. At this juncture, Mr. Alam took me to a copy of the certified copy of the judgment and decree as passed in Title Suit No. 41 of 2003 by the learned Civil Judge (Senior Division), Diamond Harbour, South 24 Parganas wherein the PWD authority was a party defendant. It is submitted by Mr. Alam that from the decree as passed in the said suit, it reveals that in Plot No. 604 under Mouza – Kachuberia in respect of 74 decimal of land out of 83 decimal of land, the said trial Court decreed 21.5 decimal of land in favour of the plaintiff being the writ petitioner herein and 52.5 decimal of land in favour of principal defendants in the said suit for partition.
7. It is further submitted by Mr. Alam that if the decreetal quantum of lands as have been declared by the learned trial Court are added, it would reveal that

in Plot No. 604, the plaintiff and the principal defendants are the owners of 74 decimals of land out of 83 decimal of land and, therefore, 9 decimal of land are left out in the self-same plot being Plot No. 604.

8. It is further submitted that by the order under challenge as well as by the notice under challenge, the respondents/authorities, more specifically, the respondent no. 5/authority wants to evict the writ petitioner from 10 decimal of land on the basis of a faulty demarcation report.
9. It is thus submitted by Mr. Alam that in view of such discrepancy which is apparent on the fact of the record, intervention of this Court is absolutely necessary in view of the fact that the respondent no. 2/authority while passing the order under challenge in an appeal under Section 10(4) of the said Act of 1964 has failed to visualize such discrepancy though pointed out on behalf of the writ petitioner and thus, the decision making process of the respondent no. 2/authority has been vitiated like anything.
10. It is thus submitted by Mr. Alam that it is a fit case for granting relief to the writ petitioner in terms of the prayers made in the instant writ petition.
11. Per contra, Mr. Banerjee, learned advocate appearing on behalf of the respondent/State in course of his argument at the very outset draws attention of this Court to Annexure 1 of the report as filed today as well as the demarcation map as prepared by the jurisdictional revenue inspector. It is submitted that

on conjoint perusal of Annexure 1 being a copy of the memo dated 28.05.2025 and the demarcation map as prepared by the said jurisdictional revenue inspector, it would reveal that the present writ petitioner has encroached the portion of the PWD Road with the mark 'E' which is measuring about 14' 6" X 13'. It is submitted by Mr. Banerjee that no materials could be placed before this Court that the demarcation report as prepared by the jurisdictional revenue inspector is otherwise faulty.

12. This Court has meticulously gone through the entire materials as placed before this Court. This Court has given its due consideration over the submissions of the learned advocates for the contending parties.
13. Admittedly, in the aforementioned suit for partition, the trial Court decreed the said suit in a preliminary form declaring the plaintiff's right, title, interest and possession to the extent of 21.5 decimal over the suit property being 74 decimal of land out of 83 decimal of land in Plot No. 604 in Mouza – Kachuberia under P.S. Sagar.
14. Admittedly, in the said suit for partition, the PWD was a party.
15. However, in course of his argument, Mr. Alam could not satisfy this Court as to how the writ petitioner apprehends that he would be evicted from his allotted 21.5 decimal of land by the order under challenge as well as by the notice under challenge.

16. The discrepancy of alleged 9 decimals of land and/or 10 decimal of land in the aforementioned plot also cannot be explained at the time of hearing before this Court.
17. At this juncture, if I look to the report as submitted on behalf of the respondent/State today, it appears to this Court from the demarcation map as prepared by the jurisdictional revenue inspector, it reveals that the writ petitioner has encroached a portion of PWD road measuring about 14'6" X 13' which is contiguous to his rayati land which has been marked in the said map with the colour 'green' and figure 'F'.
18. As rightly pointed out by Mr. Banerjee that no materials could be placed before this Court that the decision making process of the respondent no. 2/authority is vitiated for non-consideration of some materials which are available on record. Admittedly, this Court sitting in a writ jurisdiction, cannot act as an appellate authority to scrutiny every pros and cons of the order under challenge unless it has been shown that the order under challenge is otherwise perverse and/or the decision making authority has failed to consider the relevant document which is available before him.
19. In view of the discussions made hereinabove, this Court thus finds no reason to interfere with the order dated 29.05.2025 as passed by the respondent no. 2/authority as well as with the notice dated 25.06.2025.

20. With the aforementioned observations, the instant writ petition being **WPA 14278 of 2025** is dismissed.
21. The respondent no. 5/authority is hereby directed to issue a fresh notice for eviction of the unlawful encroachers in the spirit to its earlier memo no. 643/V-8 dated 25.06.2025.
22. Learned advocate for the respondent/State is hereby directed to communicate the server copy of this order to the respondent no. 5/authority for his information and doing the needful.
23. The respondent no. 5/authority is hereby directed to act on the server copy of this order.
24. With the dismissal of the instant writ petition, the stay order as passed by this Court on 30.06.2025 is hereby vacated.
25. 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.)