

S/L 8
24.09.2025
Court. No. 19
Sourav

WPA 15455 of 2025

Dipak Kumar Jain & Anr.
Vs.
The National Highways Authority of India & Ors.

Mr. Jishnu Chowdhury, Sr. Adv.
Mr. Arkadeb Biswas
Ms. Debarati Roy Chowdhury

...for the petitioners.

Mr. Amit Meharia
Ms. Paramita Banerjee
Mr. Tamoghna Chattopadhyay
Mr. Rohan Raj

...for NHAI.

Mr. Ashim Kr. Ganguly, Ld. AGP
Ms. Jyotsna Roy Mukherjee

...for the State.

1. The affidavit-of-service as filed today on behalf of the writ petitioners is taken on record.
2. The subject matter of the instant writ petition is the alleged demolition process as initiated by the NHAI authority over Plot No. 650 in Mouza – Umarpur under P.S. Raghunathganj, District – Murshidabad.
3. At the time of hearing, Mr. Chowdhury, learned senior advocate appearing on behalf of the writ petitioners at the very outset draws attention of this Court to the provisions of Section 26(6) of the Control of National Highway (Land and Traffic) Act, 2002 (hereinafter referred to as 'the said Act of 2002' in short).
4. Drawing attention to Page Nos. 18 to 32 of the instant writ petition, being a copy of the registered deed of conveyance as has been registered on 01.12.2017, it is submitted by Mr. Chowdhury that by the said registered

deed of conveyance, the writ petitioners became the absolute owners of 9 decimals of land out of 70 decimals of land in Plot No. 650.

5. It is submitted by Mr. Chowdhury that Section 26(6) of the said Act of 2002 mandates service of notice upon the occupier on the Highway land prior to removal. It is contended by Mr. Chowdhury that prior to initiating the process of demolition under Section 26(6) of the said Act, no notice was served upon the writ petitioners. It is thus submitted by Mr. Chowdhury that on account of the aforementioned statutory violation on the part of the NHAI authority, appropriate relief/reliefs may be granted to the writ petitioners in terms of the prayers made in the instant writ petition.
6. Mr. Raj, learned advocate appearing on behalf of the NHAI authority in course of hearing has handed over a copy of notice dated 01.08.2024 and a copy of office order dated 08.08.2024 as passed by the Project Director of the NHAI authority. It is submitted by Mr. Raj that despite service of notice under Section 26 (6) of the said Act of 2002 upon the writ petitioners none turned up on behalf of the writ petitioners and on account of such absence of the writ petitioners, an office order dated 08.08.2024 was issued for removal of the encroachment over the alleged disputed plot of land which is, however, strongly opposed by Mr. Chowdhury by saying that the notice dated 01.08.2024 does not contend the signature of any of the writ petitioners.

7. Ms. Roy Mukherjee, learned advocate appearing on behalf of the respondent/State in course of her submission has handed over a report dated 15.09.2025 which is taken on record. It is submitted by Ms. Roy Mukherjee that from the annexures of the said report, it would reveal that the relevant plot no. 650 in the aforementioned Mouza was acquired long back that is in the year 2002, which would be evident from the copy of the gazette notification as has been annexed to the report as filed today.
8. Such contention is also opposed by Mr. Chowdhury by saying that the assertion as made in the said report is contrary to the truth in view of the fact that the alleged acquisition never took place and which is why the plot no. 650 was not recorded in Khatian No. 1.
9. Considering the entire materials as placed before this Court and after hearing the learned advocates for the contending parties, this Court has every reason to believe that the writ petitioners have not received any notice under Section 26(2) of the said Act from the Project Director, NHAI Authority.
10. In view of such, this Court while disposing the instant writ petition directs the NHAI Authority not to carry out any further demolition notice pursuant to the office order dated 08.08.2024 and the said office order dated 08.08.2024 is hereby set aside.
11. Before parting with, this Court, however, directs the writ petitioners to appear before the Project Director, NHAI, PIU, Malda positively on October 27, 2025 at 2.00 p.m.

either personally and/or through their authorized representative. On their appearance, the Project Director, NHAI, PIU, Malda shall give a fair chance of hearing to the writ petitioners and/or their authorized representative and also permit them to file their written notes of submission if the writ petitioners chooses to file the same.

12. After conclusion of hearing before the Project Director, NHAI, PIU, Malda, the said authority shall pass a reasoned order soon thereafter and shall forthwith communicate the same to the writ petitioners preferably by mail, if the email details of the writ petitioners are provided to him at the time of hearing.
13. The entire exercise as indicated hereinabove is to be completed by the 15th day of November, 2025 without granting any unnecessary adjournments to the writ petitioners herein.
14. The time limit as fixed by this Court is mandatory and peremptory.
15. Liberty is given to the learned advocate on record for the writ petitioners as well as the learned advocate for the NHAI authority to communicate the server copy of this order to the Project Director, NHAI, PIU, Malda forthwith.
16. The Project Director, NHAI, PIU, Malda is hereby directed to act on the basis of the server copy of this order.
17. Before parting with, it is made clear that while passing the reasoned order in the event the Project Director,

NHAI, PIU, Malda finds no substance in the representation and/or written notes of submission of the writ petitioners, he shall forthwith initiate the process of demolition as per the provisions of Section 26(6) of the said Act of 2002 without further reference to this Court.

18. With the aforementioned observations, the instant writ petition being **WPA 15455 of 2025** is disposed of.
19. 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.)