

S/L 8
22.04.2025
Court. No. 19
Sourav

WPA 18110 of 2024

Dost Mohammad Sk.
Vs.
The State of West Bengal & Ors.

Mr. Sk. Abu Abbas Uddin
Mrs. Nahed Rahman

...for the petitioner.

Mr. Binay Kr. Das
Mr. Bhaskar Chakraborty

...for the State.

Mr. Md. Salahuddin
Mr. Md. Raziuddin

...for the respondent no. 12.

1. The affidavit-of-service as filed in Court today is taken on record.
2. None appears on behalf of the respondent nos. 10 and 11, i.e., Mohurapur Gram Panchayat and its Pradhan, despite service. On behalf of the respondent/State and its functionaries, a letter dated 04.12.2024 is submitted and the same is also taken on record.
3. 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 nos. 2, 4, 6 and 10 to take appropriate steps for demolition of the unauthorized construction made by the private respondent no. 12 in Mouza – Moukaya, J.L. No. 29, Hal Plot No. 2416/2619 by nature 'Nayanjali' in the District of Birbhum.
4. In course of hearing, Mr. Abu Abbas Uddin, learned advocate appearing on behalf of the writ petitioner at

the very outset draws attention of this Court to Page No. 20 of the instant writ petition being a copy of letter dated 24.01.2023 as written by the Executive Engineer, Birbhum Highway Division- I, P.W. (Roads) Directorate to the BL & LRO, Murarai Block requesting him to record the aforementioned plot no. 2416/2619, J.L. No. 29 in the name of the PWD as 'Nayanjali'.

5. Drawing attention to Page No. 17 of the instant writ petition, it is submitted by Mr. Abbas Uddin that by a letter dated 19.08.2021, the respondent no. 5/authority directed the private respondent no. 12 to vacate the said plot which has been unauthorizedly occupied and/or encroached by the private respondent no. 12.
6. It is contended on behalf of the writ petitioner that since such request has not been adhered to by the private respondent no. 12, the respondent no. 5 exercised his power under Section 10 (2) of the West Bengal Highways Act, 1964 (hereinafter referred to as 'the said Act of 1964' in short) and thus, issued a memo dated 02.09.2021 addressed to the jurisdictional SDO requesting him to take appropriate action under Section 10(3) of the said Act of 1964 forthwith. It is further submitted on behalf of the writ petitioner that despite receipt of such letter, the jurisdictional SDO, who is the respondent no. 6 herein did nothing and practically sat tight over the matter.
7. Per contra, Mr. Das, learned advocate appearing on behalf of the respondent/State and its functionaries

draws attention of this Court to the letter dated 04.12.2024 as written by the SDO, Rampurhat, Birbhum. From the annexures to such letter, it reveals that the said jurisdictional SDO being respondent no. 6 herein on receipt of the letter dated 02.09.2021 from the respondent no. 5 noticed that the respondent no. 5 has not produced any documents to substantiate that the aforementioned plot has at all acquired by PWD or not. Accordingly, he requests the PWD authority to take appropriate steps for recording the name of the PWD in the relevant ROR.

8. It is further appears that the respondent no. 6 further noticed that on 24.01.2023, the Executive Engineer, Birbhum Highway, Division – I, P.W. (Roads) Directorate sent a letter to the jurisdictional BL & LRO for recording the said plot of land in the name of PWD as has been acquired in LA Case No. 100/59-60. It has also been noticed by the said respondent no. 6 that on 29.07.2024, the jurisdictional BL & LRO in response to the above letter issued another letter to the Executive Engineer, Birbhum Highway, Division – I, P.W. (Roads) to take up the matter regarding recording of acquired land with the Special Land Acquisition Officer, Birbhum as per SOP dated 25.06.2024 and as on the day of submission of the instant letter, he has got no information as to whether such recording in the record of right has been done or not.

9. In course of submission of Md. Salahuddin, learned advocate appearing on behalf of the private respondent submits before this Court that the said plot no. 2416/2619 has already been recorded in the name of the private respondent no. 12. It is further submitted by him that a civil suit is also pending over the self-same plot of land.
10. Considering the entire materials as placed before this Court and after hearing the learned advocates for the contending parties, it appears to this Court that the respondent no. 6, i.e., the SDO, Rampurhat, Birbhum is practically awaiting for recording of the name of the PWD roads in respect of Hal Plot No. 2416/2619 which is by nature 'Nayanjali'. From the report as submitted on behalf of the State, it reveals that several correspondences have been made in between the PW (roads), Directorate, Birbhum Highway, Division – I, the jurisdictional BL & LRO i.e., the respondent no. 8 herein and the Special Land Acquisition Officer, Birbhum.
11. It thus appears to this Court that on account of several correspondences between the functionaries of the State who are under the control of the respondent no. 2, i.e., District Judge, Birbhum, the SDO i.e., the respondent no. 6 has not yet taken steps for initiating a proceeding under Section 10(3) of the said Act of 1964.
12. In view of such while disposing the instant writ petition, this Court directs the respondent nos. 2 and 3

to take appropriate steps for immediate recording of the name of the owner/occupier in respect of Hal Plot No. 2416/2619 in J.L. No. 29 through respondent no. 8 i.e., BL & LRO, Murarai – I, after serving notice upon the writ petitioner, respondent no. 4 and the respondent no. 12 positively within 30 working days from the date of communication of this order.

13. In the event, the respondent no. 8, i.e., the BL & LRO, Murarai – I, Birbhum records the Hal Plot No. 2416/2619 in the name of the PW (Roads), Directorate, Birbhum in the name of PWD, the SDO shall immediately started proceeding under Section 10 (3) of the said Act of 1964 and after causing notice to all interested persons shall come to a logical conclusion of the same within 90 days from the date of completion of the recording of name in respect of Hal Plot No. 2416/2619 and shall communicate the said order both to the writ petitioner and the private respondent forthwith by mail, if the email details of the writ petitioner and the private respondent no. 12 are provided at the time of hearing. The respondent no. 6 is further directed to take appropriate steps for removal of the encroachment, if therebe any also within the said period.
14. The time limit as fixed by this Court is mandatory and preemptory.
15. Liberty is given to the learned advocate on record for the writ petitioner to communicate the server copy of

this order to the respondent nos. 2, 3, 6 and 8 for their immediate compliance.

16. All the aforementioned respondents are directed to act on the server copy of this order.
17. With the aforementioned observations, the instant writ petition being **WPA 18110 of 2024** is disposed of.
18. 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.)