

WPA 17750 of 2025

Arun Adhikary @ Kachi Adhikari & Ors.

-vs-

The State of West Bengal & Ors.

19.09.2025
SL-15
Ct.19
(S.R.)

Mr. Atreya Chakraborty
Ms. Megha Sarkar

... for the petitioners.

Mr. Dyutimay Paul
Mr. Ratul Das
Mr. Anjan Ganjan
Ms. Tanupriyo Roy

... for the private respondent no.10.

1. Affidavit of service as filed today on behalf of the writ petitioners is taken on record.
2. The writ petitioners and the private respondent no.10 are represented by their respective counsels.
3. On behalf of the respondent/State a pass over has been sought for on the ground that Mr. Supratim Dhar, learned senior advocate, who is, on his legs, before the another Coordinate Bench. Since, Mr. Dhar is a designated learned senior advocate, he is supposed to be assisted by a learned junior advocate from the State's panel. However, on being asked, it is reported that the learned junior advocate is not present before the Court.
4. On behalf of the private respondent no.10, an affidavit is filed. Let the same be taken on record.
5. The subject matters of the instant writ petition are the order dated 25.03.2025 as passed by the

respondent no.3/authority and the order dated 17.07.2025 as passed by the respondent no.2/authority.

6. For effective adjudication of the instant *lis*, paragraph 8 of my earlier order dated 27.08.2025 is required to be looked into and the same is as under:
 - *“It is submitted by Mr. Chakraborty that it is the specific case of the writ petitioners of the instant writ petition that while disposing the representation of the private respondents, no opportunity of hearing was given to the writ petitioners by the respondent no.5/authority and, on the contrary, the respondent no.5/authority must unilaterally issued a notice under Section 10(1) of the said Act of 1964 directing the writ petitioners to remove the alleged encroachment”.*
7. Mr. Paul, learned advocate appearing on behalf of the private respondent no.10 submits before this Court that on perusal of page nos.12 and 13 of the affidavit, as filed today and as has been taken on record, it would reveal that pursuant to a Coordinate Bench’s order dated 04.04.2023, as passed in WPA 22593 of 2022, the respondent no.5/authority has served notices upon all the stakeholders including the writ petitioners, which are evident from the aforementioned two pages of the said affidavit. It is, thus, submitted by Mr. Paul that it is wrong to state that the respondent no.5/authority did not comply with the order dated 04.04.2023, as passed by a Coordinate Bench of

this Court in WPA 22593 of 2022.

8. Materials have been placed on behalf of the private respondent no.10 that despite service of notice most of the alleged encroachers, who are the private respondents in WPA 22593 of 2022, had chosen not to appear before the respondent no.5/authority and, accordingly, the respondent no.5/authority in compliance with the order dated 04.04.2023 has disposed of the representation of the writ petitioners in WPA 22593 of 2022 and soon, thereafter, notice under Section 10(1) was issued upon the writ petitioners herein and, thereafter, again notice was served in a proceeding under Section 10(3) as well as in a proceeding under Section 10(4) of the said Act.
9. This Court has meticulously gone through the order dated 25.03.2025 as passed in Section 10(3) proceeding of the said Act by the respondent no.3/authority as well as the order dated 17.07.2025 as passed by the respondent n.2/authority in Section 10(4) of the said Act proceeding.
10. It appears to this Court that on careful consideration of the entire materials as placed before them, the said two respondent authorities have come to a factual finding that the writ

petitioners are the encroachers over the PWD's land and, thus, directed for removal of such encroachment, which has been affirmed by the respondent no.2/authority.

11. In course of his submission, Mr. Chakraborty though contended that the said two impugned orders, as passed by the respondent nos.3 and 2/authorities respectively, are unjust and are, thus, required to be interfered with by judicial review, however, in absence of any perversity and/or in absence of any material to show that the decision making process of the respondent nos.3 and 2/authorities have been vitiated for consideration of some extraneous materials, this Court is not, at all, inclined to interfere with the said two impugned orders dated 25.03.2025 as passed by the respondent no.3/authority as well as the order as passed in Appeal No.06 (AO) of 2025 dated 17.07.2025, as passed by the respondent no.2/authority.
12. With the aforementioned observations, WPA 17750 of 2025 is hereby dismissed.
13. Consequentially, the interim order, as passed on 27.08.2025, is hereby vacated.
14. Consequently, the liberty is given to the respondent no.5/authority to execute the order dated

25.03.2025, as passed by the respondent no.5./authority forthwith and, if necessary, with the help of the respondent no.7/authority.

15. Liberty is given to the learned advocate-on-record for the writ petitioners to communicate the server copy of this order to the respondent nos.3 and 7/authorities forthwith.
16. The respondent nos.3 and 7/authorities are hereby directed to act on the basis of the server copy of this order.
17. The department is directed for forward a copy of this order to the Chamber of the learned legal Remembrancer, Government of West Bengal, Writers' Building, First Floor, Kolkata – 700 001 with a direction to ascertain as to why the learned junior advocate, who has been assigned to assist Mr. Supratim Dhar, learned senior advocate is not present at the time of hearing, even after grant of pass over for two times.
18. There shall, however, be no order as to costs.
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.)