

S/L 5
18.09.2025
Court. No. 19
Sourav

WPA 17881 of 2025

**Banbihari Jhulki & Ors.
Vs.
The State of West Bengal & Ors.**

*Mr. Gopal Ch. Ghosh, Sr. Adv.
Mr. Uttam Kr. Bhattacharya*

...for the petitioners.

*Mr. Jayanta Samanta
Mr. Priyabrata Batabyal*

...for the State.

Mr. Raj Kr. Sain

...for the respondent nos. 13 and 14.

1. Though the instant matter is listed today under the heading “For Extension of Interim Order”, however, it appears to this Court that the instant writ petition can be disposed of on merit since, on behalf of the private respondents, a report dated 16.09.2025 as submitted by the respondent no. 11 has been filed.
2. On being asked by this Court, Mr. Sain, learned advocate appearing on behalf of the private respondents submits before this Court that such report has been forwarded to the private respondents by the said respondent no. 11.
3. The subject matter as involved in the instant writ petition is the order dated 17.07.2025 as passed in Case No. 11(AO) of 2025 by the respondent no. 3/authority whereby and whereunder the respondent no. 3/authority in a proceeding under Section 10(4) of the West Bengal Highways Act, 1964 (hereinafter referred to as the ‘said Act’ in short) affirmed the order dated

25.06.2024 as passed by the respondent no. 9/authority in a proceeding under Section 10(3) of the said Act.

4. At the time of hearing, Mr. Ghosh, learned senior advocate appearing on behalf of the writ petitioners at the very outset draws attention of this Court to the order under challenge dated 17.07.2025. Further attention of this Court is drawn to Page No. 32 of the instant writ petition, being a copy of CS & ROR in respect of various plots of land including Plot/Dag No. 170 measuring about 40 decimal.
5. At this juncture, Mr. Ghosh took me to Page No. 53 of the instant writ petition, being a copy of the LR & ROR as standing in the name of the writ petitioner no. 1. It is submitted by Mr. Ghosh that from the copy of the said LR & ROR, it would reveal that in the said plot no. 170, 0.06 acre of land was recorded in the name of the writ petitioner no. 1 as rayati land out of 0.20 acre of land.
6. Mr. Ghosh, in course of his submission again took me to Page No. 74, being an information with regard to Plot No. 170 wherein it has been indicated that the P.W.D. was a rayat whereas the present writ petitioners are the illegal occupants. It is submitted by Mr. Ghosh that the respondent no. 9/authority while passing the order dated 25.06.2024, a copy of which has been annexed at Page Nos. 90 and 91 of the instant writ petition has miserably failed to visualize such discrepancy and most wrongly passed an order of eviction against the present writ petitioners by holding the writ petitioners as illegal

occupiers overlooking the rayati right of the writ petitioners.

7. It is further submitted by Mr. Ghosh that while passing the order dated 17.07.2025, the respondent no. 3/authority mechanically endorsed the view of the respondent no. 9/authority without looking to the actual case as made by the writ petitioners before the respondent no. 9/authority as well as before him. It is thus submitted by Mr. Ghosh that on account of such miscarriage of justice, interference of this Court in judicial review is very much required in view of the fact that both the respondent nos. 9 and 3/authorities were misled on account of consideration of some extraneous materials which are not at all on record.
8. Per contra, Mr. Sain, learned advocate appearing on behalf of the private respondents draws attention of this Court to the report dated 16.09.2025 as prepared by the respondent no. 11/authority. It is submitted that from the report dated 16.09.2025 as well as from the annexures to the said report, it would reveal that the entire plot no. 170 in Mouza – Dwariberia under P.S. Sutahata was fully acquired for a public purpose under Section 4 of Act I of 1894 in connection with L.A. Case No. 9 of 1946-47 and the land losers have been awarded with the compensation particulars of whom have also been mentioned in such report.
9. It is further submitted by Mr. Sain that from the last paragraph of the Page No. 2 of the report dated 16.09.2025, it would reveal that the jurisdictional BL &

LRO prepared a demarcation report prior to issuance of notice under Section 10(1) of the said Act by the respondent no. 11/authority and the said demarcation report clearly indicates that the plot no. 170 was fully acquired and the present writ petitioners are the encroachers of a portion of the said plot of land.

10. This Court sitting in the writ jurisdiction in a judicial review is not supposed to act as an appellate court and it further appears to this Court that the order dated 25.06.2024 as passed by the respondent no. 6/authority as well as the order impugned dated 17.07.2025 as passed by the respondent no. 3/authority are based on factual appreciation of the materials as placed before them which this writ court ought not to interfere in absence of any perversity.
11. Though in course of his submission, Mr. Ghosh, learned senior advocate appearing on behalf of the writ petitioners places his reliance upon a reply to the Right to Information Act as has been annexed at Page No. 123 of the instant writ petition, it appears to this Court that such reply dated 08.04.2025 is of no consequences in view of the fact that sufficient materials have been placed that the relevant plot no. 170 has been fully acquired and at the time of demarcation by the jurisdictional BL & LRO, the present writ petitioners are found to be illegal occupants on the part of the same.
12. Such being the position, the instant writ petition being **WPA 17881 of 2025** is hereby dismissed.

13. Consequently, the interim order as passed on 21.08.2025 in connection with the instant writ petition is hereby vacated.
14. The respondent no. 11/authority is hereby directed to remove the encroachment as made by the writ petitioners within 30 working days from today and in the event, he apprehends any resistance from the writ petitioners and/or their men and associates, he is at liberty to take assistance of the Officer-in-Charge of the Sutahata Police Station.
15. The Officer-in-Charge of the Sutahata Police Station is directed to ensure availability of adequate numbers of police personnel at the time of execution of the order dated 25.06.2024 as passed by the respondent no. 6/authority in connection with M.P. Case No. 215 of 2024.
16. Liberty is given to the learned advocate for the private respondents to communicate the server copy of this order to the respondent nos. 3, 7, 11 and the Officer-in-Charge of the Sutahata Police Station for their information and compliance.
17. The respondent nos. 3, 7, 11 and the Officer-in-Charge of the Sutahata Police Station are directed to act on the server copy of this order.
18. The time limit as fixed by this Court is mandatory and peremptory.
19. Before parting with, this Court directs the department to forward a copy of this order to the Superintendent of Police, District – Purba Medinipur with a direction to

him to ensure that the order as passed by this Court is carried out in letter and spirit.

(Partha Sarathi Sen, J.)