

S/L 8
30.07.2025
Court. No. 19
Sourav

WPA 23619 of 2024

**Nazrul Malida & Anr.
Vs.
The State of West Bengal & Ors.**

*Mr. Bhaskar Ch. Manna
Ms. Mun Mun Sett
Ms. Moumita Biswas*

...for the petitioners.

*Mr. Sk. Md. Galib, Sr. Govt. Adv.
Ms. Priyamvada Singh*

...for the State.

1. The affidavit-of-service as filed today on behalf of the writ petitioner is taken on record.
2. At the time of hearing, Mr. Manna, learned advocate appearing on behalf of the writ petitioners at the very outset draws attention of this Court to Page No. 32 of the instant writ petition, being a copy of memo dated 06.02.2018 as issued by the respondent no. 3/authority addressed to the respondent no. 8/authority directing him to cause an enquiry regarding the grievance of the writ petitioners on account of the alleged encroachment by the private respondent, Sri Sasanka Jana.
3. It is submitted that soon, thereafter, the respondent no. 8/authority issued a notice dated 10.10.2018 to all the stakeholders including the writ petitioners and the private respondent and, thereafter, did nothing and thus finding no other alternative, the writ petitioners have submitted a representation dated 05.08.2024 with the respondents/authorities requesting them to take appropriate action for removal of encroachment by the

private respondent over P.W.D. land which according to the writ petitioners cause obstruction to the free egress and ingress to their property particulars of which have been mentioned in the paragraph no. 2 of the instant writ petition.

4. It is thus submitted by Mr. Manna that it is a fit case for issuing appropriate writ/writs as prayed for in the instant writ petition.
5. Per contra, Mr. Galib, learned senior government advocate appearing on behalf of the respondent/State and its instrumentalities at the very outset draws attention of this Court to the order dated 10.08.2017 as passed by a co-ordinate Bench of this Court in WP 18563 (W) of 2017 whereby and whereunder the said co-ordinate Bench while dismissing the said writ petition came to a finding that the said writ petition is liable to be dismissed in view of the fact that a report has been submitted on behalf of the State that no public property has been encroached.
6. Drawing attention to Page Nos. 29 to 31 of the instant writ petition being a copy of the judgment and order dated 18.07.2018 as passed in FMA 1393 of 2017, it is submitted by Mr. Galib that the appeal as preferred against the dismissal of the said writ petition was also dismissed by the Hon'ble Division Bench of this Court by holding that the alleged encroachments have been removed.
7. It is thus submitted by Mr. Galib that the present writ petition is barred under the principle of *res judicata*.

8. In support of his contention, Mr. Galib places his reliance upon the reported decision of ***Ishwar Dutt Vs. Land Acquisition Collector and Anorther***, reported in **(2005) 7 SCC 190**.
9. On careful perusal of 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 matter in issue as involved in the instant writ petition was substantially same in the earlier round of litigation being WP 18563 (W) of 2017 wherein a co-ordinate Bench came to a finding on the basis of the report of the respondent/State that no public property has been encroached.
10. Sufficient materials have been placed before this Court that the Hon'ble Division Bench while disposing the appeal being FMA 1393 of 2017 also upheld the view taken by the co-ordinate Bench finding that the encroachments have been removed.
11. In view of such, this Court is of considered view that the present writ petition, as rightly argued by Mr. Galib, is hopelessly barred under the principle of *res judicata*.
12. With the aforementioned observations, the instant writ petition being **WPA 23619 of 2024** is dismissed.
13. There shall be, however, no order as to costs.
14. 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.)