

S/L 15
21.05.2025
Court. No. 19
Suwayan

WPA 25365 of 2024

Md. @ Mohammad Basir Ali
Vs.
The State of West Bengal & Ors.

Mr. Prosenjit Mukherjee

...for the petitioner.

Mr. Chandi Charan De, AGP
Mr. Anirban Sarkar

...for the State.

Mr. Amit Mecharia
Ms. Paromita Banerjee
Mr. Sayan Dey

...for the respondent nos. 2, 4 & 5.

Mr. Subrata Banerjee
Mr. Suvash Roy

...for the respondent no. 3.

Mr. Manjit Singh, Sr. Adv.
Mr. Biswajit Mal
Mr. Arkaprabho Roy

...for the respondent nos. 12 to 14.

1. The affidavit-of-service as filed today is taken on record.
2. The writ petitioner, the respondents/State and its functionaries i.e. the respondent nos. 1, 7, 8, 9, 10 and 11, the respondent nos. 2, 4 and 5 and the respondent no. 3 as well as the private respondent nos. 12 to 14 are represented by their respective learned Advocates.
3. At the time of hearing learned Advocate for the writ petitioner at the very outset submits before this Court that it is the case of the writ petitioner that the present writ petitioner is the owner of LR plot no. 110 in Mouza–Paschim Gopalpur under P.S. Nalhati. It is submitted on behalf of the writ petitioner that a portion of the said LR plot no. 110 was the subject

matter of land acquisition proceeding for strengthening, widening of Panagarh-Dubrajpur-Nalhati-Moregram Road.

4. It is submitted further that under cover of a letter dated 15.03.2024, a copy of which has been annexed at page nos. 80 to 83 of the instant writ petition it has been brought to the notice of the respondents/authorities that on account of an illegal construction on the part of the private respondents over the National Highway in front of the writ petitioner's land, the writ petitioner's free movement to such land has been obstructed.
5. At this juncture, learned Advocate for the writ petitioner draws attention of this Court to page no. 96 of the instant writ petition being a letter dated 10.05.2024 as written by the respondent no. 7/authority addressed to the writ petitioner intimating him that pursuant to his complaint the jurisdictional BL&LRO was directed to make necessary demarcation. It is further submitted that under cover of the said letter the respondent no. 7/authority informed the writ petitioner that in the event in such report any unauthorized encroachment is found, he will proceed under Section 26 of the Control of National Highways (Land and Traffic) Act, 2002 (hereinafter referred to as the 'said Act of 2002').
6. It is submitted that despite issuance of such letter, no action has been taken by the respondents/authorities

for removal of the illegal encroachment as made by the private respondents.

7. Such contention is, however, opposed by the learned Advocate for the private respondent nos. 12 to 14.
8. It is submitted that over the self-same issue before the jurisdictional Civil Court Title Suit no. 51 of 1995 is pending.
9. On careful consideration of the entire materials as placed before this Court and after hearing the learned Advocates for the contending parties, this Court finds sufficient justification in the submission of the learned Advocate for the writ petitioner inasmuch as no material could be placed on behalf of the respondents/State to substantiate as to whether any action has been taken by the respondent no. 7/authority pursuant to the representation of the writ petitioner dated 15.03.2024 though materials have been placed before this Court that the respondent no. 7 has asked the jurisdictional BL&LRO to submit a demarcation report.
10. In view of such, this Court while disposing the instant writ petition directs the respondent no. 9 to submit the demarcation report with the respondent no. 7 after causing a field enquiry with prior notice to the writ petitioner as well as to the private respondents.
11. Such report is to be submitted within 30 working days from the date of communication of the server copy of this order.

12. The respondent no. 7/authority on receipt of such demarcation report shall consider the representation of the writ petitioner dated 15.03.2024 in accordance with law in the light of the said demarcation report and after giving opportunity of hearing both to the writ petitioner as well as to the private respondents and/or their authorized representatives shall pass reasoned order and shall communicate the same to the writ petitioner and the private respondents preferably by mail, if the mail details of the writ petitioner is furnished to him at the time of hearing.
13. The entire exercise as indicated in the foregoing paragraph is to be completed by the respondent no. 7/authority positively within 45 working days from the date of receipt of the report from the respondent no. 9/authority.
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 petitioner to communicate the server copy of this order to the respondent no. 7 for his information and immediate compliance.
16. The respondent nos. 7 and 9 are directed to act on the basis of the server copies of this order.
17. Before parting with, it is made clear that since affidavits have not been called for the allegation made in the instant writ petition are deemed to have been denied.

18. It is further ordered that in the event at the time of passing of the reasoned order the respondent no. 7 finds sufficient merit in the representation of the writ petitioner he is directed to proceed with in accordance with the provision of Section 26 of the said Act of 2002 soon thereafter.
19. With the aforementioned observation, the instant writ petition being WPA 25365 of 2024 is disposed of.
20. Urgent Xerox certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Partha Sarathi Sen, J.)