

20.01.2025  
Item No.03  
Court No.11  
Avijit Mitra

**FMA 1452 of 2024  
with  
IA No.CAN 1 of 2024**

**Subir Chakraborty @ Subir Kumar Chakraborty  
- Versus -  
Dhruba Chand Halder & ors.**

Mr. Sankar Prasad Dalapati,  
Mr. Safik Dewan,  
Mr. Sourav Mondal  
...for the appellant  
Mr. Chandi Charan De, Ld. A.G.P.,  
Mr. Anirban Sarkar  
...for the State respondents  
Mr. Pankaj Halder,  
Mr. T. Manna  
...for the respondent no.7

By reason of a typographical error, the first line of the order dated 16<sup>th</sup> January, 2025 has been incorporated as 'Affidavit-of-service, as filed, be kept on record'.

Office is directed to delete the said line.

The present appeal has been preferred challenging an order dated 7<sup>th</sup> November, 2024 passed by the learned Single Bench in WPA 26130 of 2024. In the impugned order, the Block Land & Land Reforms Officer was directed to conduct a physical inspection of the alleged encroachment and construction on the PWD land and submit a report to the jurisdictional Assistant Engineer of the PWD. Copies of this report were directed to be provided to the writ petitioner (respondent no. 1 herein) and the private respondent (appellant herein). Furthermore, the learned Single Judge

directed that if the report confirmed the encroachment and construction on the PWD land, appropriate follow-up actions would be taken in accordance with the law.

The appellant is aggrieved by the order and have preferred the present appeal, inter alia, on the ground that the PWD land has been encroached upon by the appellant. On the other hand, the writ petition was filed by the respondent no. 1 herein, who contended that due to the encroachment, ingress and egress to his plot of land is being obstructed.

Mr. Dalapati, learned advocate for the appellant, submits that the writ petitioner, respondent no. 1, does not have the *locus standi* to point out the encroachment on the road belonging to the PWD. He argues that since the writ petitioner lacked the locus standi to file the writ petition, the order passed in the petition is fundamentally flawed and, therefore, cannot be sustained.

Mr. De, learned Additional Government Pleader appearing for the State respondents, submits that in compliance with the order passed in the writ petition, the Block Land and Land Reforms Officer conducted a physical inspection in the presence of the appellant. The report of the inspection has been served upon all parties, and in accordance with the direction given in the writ petition, the report was also submitted to the Assistant Engineer, PWD. Let the report, as filed, be kept on record.

In reply, Mr. Dalapati confirms that the B.L. & L.R.O. conducted the physical inspection and provided a copy of the

report to the appellant. He further informs that the appellant has filed objections to the report.

Therefore, during the pendency of this appeal, the concerned Block Land & Land Reforms Officer conducted the inspection, and the report was served on both the appellant and respondent no. 1. The report confirms the encroachment on the PWD land. The appellant has filed objection to the report.

Thus, a significant part of the order challenged in the appeal has already been implemented, and the appellant has agreed to pursue the statutory remedy provided to him under the Act of 1964.

In view thereof, we are not inclined to interfere with this appeal.

However, it is expected that the jurisdictional Assistant Engineer, PWD, will provide an opportunity for both parties to be heard and will decide the appellant's objection on merit. The Assistant Engineer shall also take follow-up action in accordance with the order passed in the writ petition.

With the above directions and observations, the appeal and the connected application are disposed of.

There shall however be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties, upon compliance of all requisite formalities.

**(Partha Sarathi Chatterjee, J.)(Tapabrata Chakraborty,J.)**