

Sl.7
16.01.2026
Court No.19
BP

WPA 537 of 2026

Bishnu Pada Mahapatra
-versus-
The State of West Bengal & Ors.

Mr. Balaram Pandit
Mr. Krishna Deo Das
..for the petitioner

Mr. Lalit Mohan Mahata, Ld. Addl. Govt. Pleader
Mr. Prasanta Behari Mahata
..for the State

Affidavit of service filed in Court today is taken on record.

The petitioner claims to be the owner of plot of land being Dag No. 3392 within Mouza Jerthan, J.L. No.45 in the District of Purba Medinipur. The petitioner alleges that the private respondents herein have encroached upon and have taken possession of around 1000 and 400 sq. ft. respectively of the Government road/PWD land on Egra-Solpatta State Highway near the Bagcha Bus Stop which is adjoining to and in front of the petitioner's above land. Pursuant to an order passed by a Co-ordinate Bench on July 30, 2024 in WPA 558 of 2024 directing the respondent authority to cause physical inspection of the alleged encroachment and after giving an opportunity of hearing to decide the representation dated December 18, 2023 by passing a reasoned order, the Assistant Engineer, Contai Highway Sub-Division, Public Works (Roads), Directorate passed an order on September 16,

2025 upon holding that the land in question does not fall under the Maintenance and Control of Highways and for which no action for removal or demolition of the unauthorised occupant can be initiated under the West Bengal Highways Act, 1964.

The learned advocate appearing for the petitioner submits that only by relying upon the entries in the record of rights such order was passed. He further submits that the encroachment was made upon the road which is under the control and administration of the Public Works Department of the State of West Bengal.

Mr. Mahata, learned Additional Government Pleader submits that after making demarcation it was found that the construction has been made on Government Plot No. 3333 under J.L. No. 45 of Mouza Jerthan which is in front of the plot of the petitioner being Dag No. 3392 and Plot No. 3333 has been recorded in favour of the Collector (State of West Bengal) vide Khatian No.1 classified as “Nayanjuli”.

After going through the materials on record, this Court finds that pursuant to an order passed by a Co-ordinate Bench demarcation was made and the sketch map was also prepared. It has been recorded in the order dated 16th September, 2025 that the construction has been made by the private respondents on the plot which is recorded in favour of the Collector (Government of West Bengal) under Khatian No.1 as “Nayanjuli”. No material

has been produced by the petitioner at this stage for this Court to arrive at a conclusion that the property where the encroachment is alleged to have been made is not a Nayanjuli but road under the control and administration of the Public Works Department of the State of West Bengal.

For such reason, this Court is of the considered view that there is no infirmity in the order dated 16th September, 2025 passed by the Assistant Engineer, Contai Highway Sub-Division, Public Works (Roads), Directorate observing that the land in question falls beyond the jurisdiction of the authority under the West Bengal Highways Act, 1964.

This Court is, therefore, not inclined to grant any relief to the petitioner in this writ petition. However, the demarcation report of the Block Land and Land Reforms Officer confirms that there has been an encroachment upon the Nayanjuli. Even if it is accepted that the encroachment has been made on a plot which falls beyond the jurisdiction of the authority under the West Bengal Highways Act, 1964 but the same cannot be a ground for not taking appropriate steps for removal of the encroachment by initiating an appropriate proceeding under the relevant statute. It will also be open to the petitioner to take appropriate recourses in accordance with law, if so advised.

With the above observations, WPA 537 of 2026 stands disposed of.

There shall be however no order as to costs.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Hiranmay Bhattacharyya, J.)