

Sl.7
22.01.2026
Court No.19
BP

WPA 928 of 2026

Dibendu Sarkar @ Dwibyendu Sarkar
-versus-
The State of West Bengal and others

Mr. Sobhan Majumdar
Ms. Kalpita Paul
..for the petitioners

Ms. Sanghamitra Nandy
Mr. Subhajit Chowdhury
..for the State

The petitioner claims to be the recorded owner of plot nos. 1100 and 1101, Khatian No. 1/15, J.L. No.6 within Mouza Karimpur, Block Karimpur-I in the District of Nadia. The petitioner has challenged the notice under Section 10(1) of the West Bengal Highways Act, 1964 dated August 6, 2025. The petitioner states that the shop room of the petitioner is situated on plot nos. 1100 and 1101 and the petitioner has not encroached upon any portion of the PWD road.

Ms. Nandy, learned advocate appearing for the State files a copy of the report of the Assistant Engineer, Plassey Sub-Division, PWD dated January 21, 2026 which is taken on record. She submits that after a demarcation of the disputed plot was conducted it was found that the petitioner has encroached upon a portion of the PWD road. Accordingly a notice under Section 10(1) of the 1964 Act was served directing the petitioner to remove the encroachment within the time limit indicated

in the said notice. She further submits that since the encroachment was not removed within the time limit indicated in the said notice, the matter was referred to the Sub-Divisional Magistrate under Section 10(2) of 1964 Act. She submits that since the matter has now been referred to the Sub-Divisional Magistrate, such authority has to decide the said matter on the issue of encroachment.

Sub-section 3 of Section 10 of the 1964 Act states that such Magistrate may, on receiving the application and after notice to the person responsible for the encroachment and on taking such evidence, if any, as he thinks fit, make an order authorizing the authority or officer to recover possession and remove the encroachment in question and may, if necessary, direct the police to assist in the enforcement of the order. Section 10(3) of the 1964 Act contemplates an adjudication to be made upon taking evidence and after notice to the person responsible for encroachment. The said order also contemplates passing of an order. Thus it is evident that the said order has to be a reasoned one after taking into consideration the materials available on record.

Since the matter has now been referred to the concerned Magistrate, this Court is of the considered view that the petitioner should place all materials in support of his contention before such Magistrate and the Magistrate

upon considering the same shall pass an order in accordance with the provisions laid down under sub-section 3 of Section 10 of the 1964 Act.

The Sub-Divisional Officer and the Sub-Divisional Magistrate, Tehatta being the 3rd respondent is directed to dispose of the proceeding under Section 10(3) of the 1964 Act as expeditiously as possible but positively within a period of six weeks from the date of receipt of a server copy of this order.

It is, however, made clear that this Court has not gone into the merits of the claim made by the writ petitioner in this writ petition and all points are left open to be considered by such authority while passing the reasoned order.

With the above observation, WPA 928 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.)