

D/L- 8
09/02/2026
Ct. No.- 19
Aritra

WPA 2435 of 2026

**Sri Dipak Khatua
Vs.
The State of West Bengal & Ors.**

Mr. Bharat Ch. Simai

....for the petitioner

Mr. Ayan Banerjee
Ms. Sharmila Deb

....for the State

Mr. Manoranjan Jana
Ms. Rekhs Das

....for the private respondents

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

Pursuant to an order dated March 28, 2025, passed by a co-ordinate Bench in WPA 3430 of 2024, the Assistant Engineer, PWD, Kharagpur Sub Division issued a notice under Section 10(1) of the West Bengal Highways Act, 1964 dated May 29, 2025. Eight (8) encroachers were named in the said notice. Upon hearing the petitioner and the encroachers an order was passed by the Assistant Engineer, Public Works Directorate, Kharagpur Sub Division dated July 24, 2025. Since the encroachment has not been removed by the encroachers, the petitioner has approached this Court for a direction upon the respondent authorities to implement the order of removal of encroachment dated July 24, 2025.

The learned advocate appearing for the petitioner submits that since the encroachment has not been removed within the time limit specified in the said order, the matter should be forwarded to the concerned Executive Magistrate.

Mr. Jana appears for the private respondents. He submits that the other two brothers have also been shown to be the encroacher in the notice under Section 10(1) of the 1964 Act but they have not been impleaded as party respondent in this writ petition. He further submits that the petitioner is also an encroacher and the encroachment made by the petitioner should also be directed to be removed.

Mr. Banerjee appears for the State. He submits that steps in accordance with law shall be taken pursuant to the order dated July 24, 2025.

Mr. Banerjee further submits that since the encroachment has not been removed within the time limit indicated in the said notice, the matter has already been referred before the Sub-Divisional Magistrate and Sub-Divisional Officer, Kharagpur Sub-Division, Kharagpur, Paschim Medinipur.

After going through the order dated July 24, 2025, this Court finds that the said order records that prior to the date of hearing the petitioner has removed his encroachment from PWD land. Be that as it may, even if there is any encroachment made by the petitioner upon

the PWD road, which is yet to be removed steps in accordance with law shall also have to be taken for such removal.

Since the encroachments by some encroachers have not been removed within the time limit as mentioned in the order dated July 24, 2025 and the Assistant Engineer, Public Works Directorate, Kharagpur Sub Division has referred the matter to the Sub-Divisional Magistrate, the Sub-Divisional Officer and the Sub-Divisional Magistrate, Kharagpur, being the respondent No.5 is directed to conclude the proceedings in accordance with the provisions laid down under Section 10(3) of the 1964 Act as expeditiously as possible but positively within a period of 3 weeks from the date of receipt of a server copy of this order.

Since this Court has only directed the Sub-Divisional Officer and the Sub-Divisional Magistrate, Kharagpur to act on the basis of the information forwarded to him by the Assistant Engineer, non-impleading the other encroachers would not have any impact insofar as the adjudication of the writ petition is concerned as the said authority shall take steps in accordance with law.

Accordingly, WPA 2435 of 2026 stands disposed of with the above observations.

There will be no order as to costs.

All parties shall act on the server copy of this order
duly downloaded from the official website of this Court.

(Hiranmay Bhattacharyya, J.)