

Sl.68
12.03.2026
Court No.19
BP

WPA 2841 of 2026

Jyostna Maji and others
-versus-
The State of West Bengal & Ors.

Mr. Purnasish Gupta
Mr. Mukul Kumar Mitra
Mr. Jayanta Kumar Mukhopadhyay
..for the petitioners

Mr. Chandi Charan De, Ld. Addl. Govt. Pleader
Ms. Saswati Chatterjee
..for the State

Mr. Arun Shaw
..for the respondent no.12

The petitioners claim to be the owner of a plot of land being Dag No. 3064 within Mouza Bawai, J.L. No.35 under Police Station Khandagosh in the District of Purba Bardhaman. The petitioners state that a PWD road is running adjacent to the aforesaid property of the petitioners. The petitioners allege that the private respondents have raised a construction by encroaching upon the said PWD road.

The learned advocate appearing for the petitioners submits that in spite of a complaint lodged by the petitioners before the respondent authorities praying for removal of the encroachment no steps have been taken by the respondent authorities till date.

The learned advocate appearing for the private respondent disputes the submission of the learned advocate for the petitioners. He submits that out of 0.13 acres of C.S. Plot No. 3063 only a portion thereof measuring about 0.11 acres has been acquired under the provisions of the West Bengal Land (Requisition and Acquisition) Act, 1948 for construction of the PWD road. He submits that the construction of the

private respondent is within the unacquired portion of the said plot of land. He further submits that no portion of the PWD road has been encroached upon by the private respondent.

Mr. De, learned Additional Government Pleader files a bunch of documents which is taken on record. He submits that pursuant to the complaint lodged by the petitioners a demarcation was carried out and upon such demarcation it was found that a portion of the PWD road has been encroached upon. Accordingly a notice under Section 10(1) of the West Bengal Highways Act, 1964 has been issued. He further submits that since the encroachment has not been removed within the time limit indicated in the said notice the matter has been thereafter referred to the Executive Magistrate. He submits that the matter is now pending before the Executive Magistrate.

On a query of the Court as to whether the report of demarcation has been supplied to the respective parties, Mr. De, learned Additional Government Pleader submits that in case the parties approach the concerned Executive Magistrate the copy of the report shall be supplied to the parties immediately thereafter. Such submission of Mr. De is placed on record.

Since a proceeding under Section 10 of the West Bengal Highways Act, 1964 has been initiated upon detecting that there has been an encroachment upon the PWD road and the matter is now pending before the Executive Magistrate, WPA 2841 of 2026 stands disposed of by directing the Sub-Divisional Officer, Bardhaman Sadar South, Purba Bardhaman and the Executive Magistrate being the 6th

respondent to dispose of the proceeding under Section 10(3) of the West Bengal Highways Act, 1964 in accordance with law by passing a reasoned order after affording an opportunity of hearing to the petitioners, the private respondent and communicate the reasoned order to the parties immediately thereafter. The entire exercise shall be completed by the 6th respondent as expeditiously as possible but positively within a period of six weeks from the receipt of a server copy of this order. Liberty is given to the petitioners and the private respondent to approach the 6th respondent praying for a copy of the demarcation report and if such a request is made the 6th respondent shall serve a copy of the demarcation report along with the sketch map, if any, to the respective parties immediately upon such request being made and prior to the date fixed for hearing under Section 10(3) of the 1964 Act. It is, however, made clear that the parties will be at liberty to produce all relevant material and document in support of their respective claims and counter-claims before the 6th respondent at the time of hearing.

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.)