

Court No. 19
(265719)

27.02.2026
(AD 18)
(S. Banerjee)

WPA 4875 of 2026

Dibendu Sarkar @ Dwibyendu Sarkar
Vs.
State of West Bengal & Ors.

Mr. Sobhan Majumder
Ms. Kalpita Paul

...for the petitioner

Mr. Sambuddha Dutta
Mr. Ritesh Kumar Ganguly

...for the State

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

Petitioner has challenged the order of the Sub-
Divisional Magistrate, Tehatta dated February 19,
2026 in SDM Case No. – 33/SDM/TS-HC under
Section 10(3) of the West Bengal Highways Act, 1964
by preferring an appeal under Section 10(4) of the
1964 Act on February 24, 2026.

Learned advocate appearing for the petitioner
submits that by the order dated February 19, 2026
the Sub-Divisional Magistrate, Tehatta directed the
impugned construction to be removed on or before
February 28, 2026.

Mr. Dutta, learned advocate appearing for the
State, on instruction, submits that no steps for

demolition will be taken during the pendency of the appeal under Section 10(4) of the 1964 Act.

Such submission of Mr. Dutta is placed on record.

An appeal challenging an order passed under Section 10(3) of the 1964 Act directing removal of unauthorized encroachment is required to be disposed of expeditiously.

Since the petitioner has approached the appellate authority under the relevant statute, if during the pendency of the said appeal the order passed by the Sub-Divisional Magistrate, Tehatta is implemented, the petitioner will suffer irreparable loss and injury.

In view thereof, this writ petition stands disposed of by directing the District Magistrate, Nadia, being the 2nd respondent, to fix a date of hearing of the appeal filed by the petitioner on February 24, 2026 and make an endeavour to dispose of the same as expeditiously as possible but positively by the end of the month of April, 2026 after affording an opportunity of hearing to the petitioner, the private-respondent and any other person who may be affected by such decision.

The respondent authorities are restrained from taking any coercive step during the pendency of the appeal preferred by the petitioner under Section 10(4) of the 1964 Act.

It is, however, made clear that this Court has not gone into the merits of the appeal and all points are left open to be decided by the District Magistrate.

Parties are directed to communicate this order to the District Magistrate.

(Hiranmay Bhattacharyya, J.)