

Item-
ML-
6.

Ct. 19

sg

WPA 5017 of 2026

Hamid Mondal & Ors.
Versus
State of West Bengal & Ors.

Mr. Sobhan Majumder
Ms. Kalpita Paul
...for the petitioners
Mr. Chandi Charan De, ld. AGP
Ms. Susmita Chatterjee
...for the State

Affidavit of service filed in Court is taken on record.

The petitioners have prayed for a direction upon the District Magistrate, Nadia to dispose of the appeal filed by the petitioner under Section 10(4) of the West Bengal Highways Act, 1964 expeditiously.

The learned Advocate appearing for the petitioners submits that by the order dated 19th February, 2026 passed by the Sub-Divisional Magistrate, Tehatta, Nadia, the petitioners have been directed to remove the unauthorized construction from the PWD road by 6th March, 2026.

Mr. De, learned Additional Government Pleader, appearing for the State submits that no steps for demolition shall be taken during the pendency of the said appeal.

Such submission of Mr. De is placed on record.

The petitioners have filed an appeal on 24th February, 2026 under Section 10(4) of the 1964 Act challenging the order dated 19th February, 2026 passed by the Sub-Divisional Magistrate, Tehatta, Nadia in SDM Case No. 33/SDM/TS-HC under Section 10(3) of the West Bengal Highways Act, 1964.

After going through the order dated 19th February, 2026, this Court finds that the petitioners were directed to remove the unauthorized encroachment by 6th March, 2026.

Since the petitioners have availed of the appellate remedy under the relevant statute, this Court is of the considered view that unless an interim protection is granted and if the order passed under Section 10(3) of 1964 Act is implemented/executed in the meantime, the said appeal would become infructuous. In that event the petitioners 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 which was filed by the petitioners on 24th February, 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 petitioners, the private respondent and any other person who may be affected by such decision and communicate the reasoned order to the parties immediately thereafter.

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

It, 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.

It will also be open to District Magistrate to refuse

any prayer for unnecessary adjournment.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Hiranmay Bhattacharyya, J.)