

WPA/14696/2026
SUBODH KUMAR ROY AND ORS.
VS.
STATE OF WEST BENGAL AND ORS.

Mr. Rajdatta Chattopadhyay, Adv.
Ms. Risha Das, Adv.
Mr. Somnath Guha, Adv.
Mr. Kunal Ghosh, Adv.

....For the Petitioners

Mr. Indrajit Roychoudhuri, A.G.P.
Mr. Anup Dasgupta, Adv.

...For the Respondent-State

1. Affidavit-of-service as filed by writ petitioners today is taken on record.
2. The contending parties are represented by their respective learned counsel.
3. At the time of hearing, Mr. Chattopadhyay, learned advocate appearing on behalf of the writ petitioners, submits before this Court that in a proceeding under section 10(3) of the West Bengal Highways Act, 1964 ('Act of 1964' in short), the petitioners were found to be encroachers by the Respondent No.3 authority and accordingly, an order of eviction was passed by the Respondent No.3 authority, which would be evident from Page-25 of the instant writ petition. It is further submitted that in the said proceeding under section 10(3) of the Act of 1964

the present writ petitioners were directed to remove encroachment on or before 3.7.2026.

- 4.** In his next limb of submission, Mr. Chattopadhyay submits before this Court that from Annexure-‘P/6’ of the instant writ petition being a copy of the appeal under section 10(4) of the Act of 1964, it would reveal that challenging the said order dated 12.6.2026, as passed by the Respondent No.3 authority, the writ petitioners approached the Respondent No.2 authority. However, the said appeal has not yet been taken up for hearing and even no date of hearing has been fixed by the Respondent No.2 authority.
- 5.** It is, thus, submitted by Mr. Chattopadhyay that in view of pendency of the said appeal, no coercive action may be taken against the writ petitioners by the Respondent No.3 authority and/or any other authorities as mentioned in the cause title as respondents till disposal of the appeal by the Respondent No.2 authority.
- 6.** Such prayer is vehemently opposed by Mr. Roychoudhuri, duly assisted by Mr. Dasgupta. It is submitted that in the instant writ petition no such prayer has been made by the writ petitioners as urged by Mr. Chattopadhyay.
- 7.** On careful perusal of the entire materials as placed before this Court it appears to this Court that

challenging the order of Respondent No.3, as passed on 12.6.2026 in a proceeding under section 10(3) of the Act of 1964, the writ petitioners preferred an appeal before the Respondent No.2 authority under section 10(4) of the Act of 1964. This Court finds sufficient justification in the submission of Mr. Chattopadhyay that in the event the said appeal is not taken up for hearing, there is every possibility that the said appeal would become infructuous in the event, the writ petitioners are evicted pursuant to the order dated 12.6.2026, as passed by the Respondent No.3 authority.

- 8.** Such being the position, this Court while disposing the instant writ petition directs the Respondent No.2 authority to dispose of the appeal, as preferred by the writ petitioners under section 10(4) of the Act of 1964, impugning the order dated 12.6.2026, as passed by the Respondent No.3 authority, within 90 working days from the date of communication of the server copy of this order.
- 9.** It is further directed that till disposal of the appeal there shall be a stay of operation of the order dated 12.6.2026, as passed by the Respondent No.3 authority.
- 10.** It is made clear that in the event the Respondent No.2 authority finds no merit in the appeal preferred by the writ petitioners, the Respondent

No.3 authority is directed to carry out its order dated 12.6.2026 soon thereafter.

- 11.** Liberty is given to the learned advocate-on-record for the writ petitioners to communicate the server copy of this order to Respondent Nos.2 and 3 authorities to act on the server copy of this order.
- 12.** With the aforementioned observation and direction, WPA 14696 of 2026 is **disposed of**.
- 13.** It is, however, made clear that this Court has not gone into the merit of the appeal as preferred by the writ petitioners and thus, all points are kept open for adjudication before the Respondent No.2 authority.
- 14.** Before parting with, it is made clear, since affidavits have not been called for, allegations made in the instant writ petition are deemed to have been denied.
- 15.** Urgent Photostat certified copy of this order, if applied for, be given to the parties, on priority basis, upon compliance of all necessary formalities.

(PARTHA SARATHI SEN, J.)