06.10.2026
Sl. No. 10 (DL)
Ct.No.19
(Susanta)
(Bench I.D. 266052)

WPA 19006 of 2026

Chittaranjan Bera & Anr.
Vs.
The State of West Bengal & Ors.

Mr. Rabindranath Mahto,
Mr. Aritra Shankar Ray,
... for the Petitioners.
Mr. Souvik Nandy, Sr. Adv.
Mr. Soumya Sankar Chini,
... for the State.
Ms. Rita Patra,
.... for the Private Respondent.

1. At the time of hearing, Mr. Chini, learned advocate appearing on behalf of the respondent State submits before this Court that in the order dated 05.10.2026 after the Cause Title the name of Mr. Sauvik Nandy and Mr. Soumya Sankar Chini, learned advocates have been recorded on behalf of the private respondent, though Mr. Sauvik Nandy and Mr. Soumya Sankar Chini, learned advocates appeared on behalf of the respondent State.

2. In view of such, the word "private" as appearing after the name of Mr. Sauvik Nandy and Mr. Soumya Sankar Chini, be deleted and its place the word "**State**" be inserted.

3. The department is directed to carry out the necessary correction in the order dated 05.10.2026 forthwith.

4. Let this order be treated as a part of the order dated 05.10.2026.

5. Parties are represented by their respective learned advocates.

6. The affidavit of service as filed on behalf of the writ petitioners is taken on record.

7. At the time of hearing, learned advocate appearing on behalf of the writ petitioners submits before this Court that during the pendency of the instant writ petition, the jurisdictional S.D.O, that is, the S.D.O of Kakdwip, South 24 Parganas, has passed an order dated 15.07.2026 under Section 10(3) of the West Bengal Highways Act, 1964, whereby and whereunder the said S.D.O directed for removal of the encroachment on the PWD road's land.

8. It is submitted on behalf of the writ petitioners that the property in question belongs to the present writ petitioners and the same is situated on a raiyat land.

9. Such contention is strongly disputed by the learned advocate for the private respondent as well as the respondent State.

10. Learned advocate appearing on behalf of the private respondent submits before this Court that the dispute as involved in the instant writ petition cannot be adjudicated in this writ petition since the same involves disputed questions of fact.

11. Upon careful consideration of the entire materials as placed before this Court, it appears that

when the jurisdictional S.D.O, that is, the S.D.O, Kakdwip, South 24 Parganas—vide his order dated 15.07.2026 passed in Misc./SDK/12/2026 has passed an order under Section 10(3) of the West Bengal Highways Act, 1964, the only remedy available to the writ petitioners is to prefer an appeal under Section 10(4) of the said Act before the jurisdictional District Magistrate.

12. In view of such, this Court, while disposing of the instant writ petition, permits the writ petitioners to prefer an appeal under Section 10(4), before the jurisdictional District Magistrate impugning the order dated 15.07.2026 as passed by the S.D.O, Kakdwip, South 24 Parganas.

13. In the event such appeal is preferred within 30 working days from today, the said jurisdictional District Magistrate shall treat the said appeal within the period of limitation.

14. It is further directed that in the event any application for stay of the impugned order dated 15.07.2026 is filed before the District Magistrate along with the memo of appeal, the said jurisdictional District Magistrate is directed to dispose of the stay application in accordance with law within seven working days from the date of filing of such appeal, in the event he admits the appeal.

15. It is further directed that the jurisdictional District Magistrate shall dispose of the appeal as would be preferred by the writ petitioner, positively

within 45 working days from the date of presentation of the memo of appeal before him.

16. With the aforesaid observations, the instant writ petition is **disposed** of.

17. Liberty is given to the learned advocate for the writ petitioners to communicate the server copy of this order to the jurisdictional District Magistrate, who is directed to act on the server copy of this order.

(Partha Sarathi Sen, J.)