

Court No. 19
(265719)

30.01.2026
(AD 1)
(S. Banerjee)

WPA 20134 of 2025

Radha Rani Das & Ors.
Vs.
The State of West Bengal & Ors.

Mr. Subhadeep Chatterjee
Ms. Arpita Kundu

...for the petitioners

Mr. Ayan Banerjee
Ms. Indumouli Banerjee

...for the State

The petitioners have prayed for setting aside the notice issued under Section 10(1) of the West Bengal Highways Act, 1964 (in short, 'the 1964 Act') in this writ petition. During the pendency of the writ petition an order under Section 10(3) of the 1964 Act was passed by the Sub-Divisional Magistrate, Contai, Purba Medinipur on December 24, 2025. Petitioners filed a supplementary affidavit bringing on record the subsequent events annexing the copy of the order dated December 24, 2025. Learned advocate appearing for the petitioners submits that the order under Section 10(3) of the 1964 Act was passed without giving any opportunity to the petitioners to deal with the demarcation report. He submits that copy of the demarcation report was not supplied to the petitioners prior to the hearing conducted by the Sub-Divisional Magistrate, Contai, Purba Medinipur.

When this matter was taken up for hearing on January 28, 2026, Mr. Banerjee, learned advocate appearing for the State was directed to take instructions with regard to the allegations made in the writ petition. Today when this matter is taken up for hearing, Mr. Banerjee, learned advocate, produces a copy of the memo dated January 28, 2026 issued by the Sub-Divisional Officer, Contai, Purba Medinipur, which is taken on record. A copy of such memo has already been supplied to the learned advocate appearing for the petitioners and Mr. Mishra, learned advocate appearing for the private-respondents. It has been specifically indicated in the said memo that the private-respondents submitted their representations but did not pray for supply of the demarcation report.

Mr. Banerjee, learned advocate appearing for the State, however, submits on instruction, that copy of the demarcation has not been supplied to the petitioners prior to the hearing conducted by the Sub-Divisional Magistrate. He, however, submits that a soft copy of such demarcation report has been forwarded to the learned advocate appearing for the petitioners through Whatsapp.

On a query of the Court learned advocate-on-record appearing for the petitioners submits that he

has received copy of the said report through Whatsapp.

By the order passed under Section 10(3) of the 1964 Act, 12 number of encroachers, including the petitioners, were directed to remove the unauthorized encroachment from the scheduled government plot nos. 9262 and 9265 within Mouza – Kamarda within the time limit indicated in the said order.

The order directing removal of encroachment has serious civil consequences. It was incumbent upon the authorities deciding the issue of encroachment to supply copy of the materials that such authority intended to rely upon while passing the order for removal of encroachment.

In the light of the submissions made by Mr. Banerjee, learned advocate appearing for the State that a copy of the report was not supplied to the petitioners prior to conducting the hearing under Section 10(3) of the 1964 Act, this Court is of the considered view that principles of natural justice has been grossly violated in the case on hand. Though an appeal lies under Section 10(4) of the 1964 Act against an order passed under Section 10(3) of the said Act, this Court is inclined to entertain this writ petition as the case on hand falls within the

exceptions carved out by the Hon'ble Supreme Court for entertaining a writ petition in spite of availability of alternative efficacious appellate remedy under the relevant statute.

This Court is, however, inclined to interfere with the order passed under Section 10(3) of the 1964 Act insofar as the writ petitioners in this writ petition are concerned as they have only challenged the said order.

The order dated December 24, 2025 passed by the Sub-Divisional Magistrate, Contai, Purba Medinipur is accordingly set aside insofar as the writ petitioners in this writ petition are concerned.

Since a soft copy of the demarcation report has already been forwarded to the learned advocate-on-record of the petitioners, petitioners will be at liberty to file an objection to the said report on or before February 5, 2026.

On a query of the Court Mr. Banerjee, learned advocate appearing for the State, on instruction, submits that the Sub-Divisional Magistrate, Contai, Purba Medinipur shall conduct a hearing in terms of the order passed by this Court within the time limit as may be fixed by this Court.

At the suggestion of Mr. Banerjee, learned advocate appearing for the State, the date of hearing before the Sub-Divisional Magistrate, Contai, Purba Medinipur in connection with the proceeding under Section 10(3) of the 1964 Act insofar as the writ petitioners in this writ petition are concerned, is fixed on February 21, 2026 at or about 3 p.m.

Since the date and time of hearing is fixed by this Court at the suggestion of the learned advocate appearing for the State and in presence of the learned advocates appearing for the respective parties, there would not be any necessity to serve any notice of hearing to the respective parties.

It is, however, made clear that the Sub-Divisional Magistrate would be authorized to reject any prayer for unnecessary adjournment on that date. If for any reason the hearing cannot be concluded on that date, a further date of hearing would be fixed as soon as possible but not later than February 25, 2026.

The proceeding under Section 10(3) of the 1964 Act insofar as the writ petitioners in this writ petition are concerned, shall be disposed of by passing a reasoned order which shall be communicated to the

respective parties within a period of seven working days from the date of hearing.

With the above observations and directions this writ petition stands allowed.

(Hiranmay Bhattacharyya, J.)