

06.01.2026
Sayandeep
Sl. No. 03
Ct. No. 03

WPA 20614 of 2025

Sudipta Saharay & ors.
Vs.
The State of West Bengal & ors.

Mr. Saptangsu Basu
Mrs. Soma Roy chowdhuri
Mr. Debasis Roy Choudhuri
Ms. Payel Khanra

.... For the Petitioners

Ms. Sonal Sinha
Mr. Sandipan Das
Kazi Tania Parveen

..... for the Municipality

Mr. K. J. Yusuf, Id. AGP
Mr. Parikshit Goswami

..... for the State

Mr. Debanik Banerjee
Mr. Aniruddha Ganguly
Huzaifa Shahid

..... for the respondent Nos. 6,7,8

1. The present writ petition has been filed calling upon the Englishbazar municipality to maintain and preserve the public street including removal of all encroachments. On the above writ petition being filed, this Court by an order dated 25th November, 2025 was, inter alia, pleased to observe as follows:

“Records would reveal that the private respondents had previously filed a writ petition being WPA 12794/2021, inter alia, complaining that the English Bazar Municipality is making construction of a road by encroaching upon the private land of the petitioners. A Co-ordinate Bench of this Court, inter alia, upon considering all relevant aspects, was pleased to dispose of such writ petition by directing the municipality to conduct inspection within 6 weeks from the date of communication of the order and to take a final decision in the matter upon ascertaining whether there has

been unauthorized encroachment after giving an opportunity of hearing to both the parties. From the order, it would also transpire that the Hon'ble Court had observed that if the petitioners' land had been illegally encroached upon, then necessary steps may be taken either for removal of the unauthorized encroachment or for payment of compensation on account of using the land of the petitioners for public purpose.

Pursuant to the aforesaid, an inspection was carried out and later by communication dated 11th September, 2024 by the Chairman and the Board of Councillors, English Bazar Municipality, while recording therein that there has been encroachment on a part of the property belonging to the petitioners, had offered the petitioners a sale consideration of Rs.1,62,830/- which was assessed at market value for the encroached portion of the road.

The petitioners did not respond to the said offer. It is in these circumstances by reasons of the non-cooperation on behalf of the petitioners in the previous proceedings, the municipality by order dated 25th September, 2025 had decided to drop above proceedings as according to the municipality, the petitioners had lost interest.

The present writ petition has, however, been filed in effect for ensuring that the municipal road, which has already been constructed and had been in existence long back be continued to be treated as "municipal road" without any further interference.

Mr. Basu, learned senior advocate representing the petitioners would submit that the petitioners have a right on the municipal road. Simply because, the private respondents who were the petitioners in WPA 12794/2021 have lost interest, the same cannot absolve the municipality to discharge their statutory obligation. Statute authorizes the municipality to acquire lands, if necessary for maintaining public safety.

The municipal authorities are not powerless and are competent to acquire land, if necessary. Accordingly appropriate directions may be passed by this Court for ensuring that the right of the petitioners on the municipal road is not interfered with.

Ms. Sinha, learned Additional Government Pleader appears for the municipality.

Having heard the learned advocates appearing for the respective parties, I am of the view that the municipality should file a detailed report as regards its stand having regard to the provisions contained in Section 171 of the West Bengal Municipal Act, 1973.

List the matter for further consideration under the same heading on December 18, 2025.”

2. Since on 18th December, 2025 noting that the municipality had filed a report and had expressed their intention to acquire the portion of the property which encroaches the portion of the private respondents’ land had posted the matter for further consideration this day so as to enable to the parties to work out an amicable solution in relation to acquisition of the encroached land by the municipality.
3. Today, Ms. Sonal Sinha learned advocate representing the municipal authorities has placed before this Court the communication dated 30th December, 2025 and would submit that the municipality was all along interested to buyout the portion of the land which encroached into the property of the private respondents and had accordingly offered Rs. 162830/-.
4. Mr. Banerjee, learned advocate representing the respondent Nos. 6,7 and 8 on instructions would submit that the offer is too low and they are not willing to accept the same.
5. Having regard to the peculiar facts noted above, I am of the view since the municipality had already expressed the intention to acquire the portion of the property which encroaches upon the property of the private respondent, let immediate steps be taken by the municipality to acquire the same in accordance with law.

6. It is expected that the municipality shall ensure that the acquisition proceedings are initiated within a period of 4 weeks from the date of communication of this order.
7. With the above observations and directions, the writ petition is disposed of.
8. The municipality must ensure that the portion of the public road which has encroached upon the private respondents' property, are not in any way interfered with, and the same is kept hindrance free for the use of public at large.
9. All parties shall act on the basis of server copy of this order duly downloaded from the Official Website of this Court.

(Raja Basu Chowdhury, J.)