

**In the High Court at Calcutta
Constitutional Writ Jurisdiction
Appellate Side.**

**Bhim Charan Adak & Ors.
Vs.
The State of West Bengal & Ors.**

Mr. Billwadal Bhattacharyya, Sr. Advocate
Mr. Anish Kumar Mukherjee
Ms. M. Datta
Mr. T. Pramanick For the Respondent Nos. 8-10.

1. As prayed for leave is granted to the petitioner to correct the group number in the presentation form.
2. This writ petition alleges inaction on the part of the respondent State Authorities in taking steps pursuant to the petitioners' representation dated November 10, 2025 whereby the petitioners have complained of encroachment and unauthorized occupation of Government land.
3. Mr. Betal, learned Advocate appearing for the petitioners submits that despite a representation having been made as far back as on November 10, 2025 the respondent Sub-Divisional Officer, Tamluk Irrigation Division has not taken any step

to remove the encroachers.

4. Mr. Bhattacharyya, learned Senior Advocate appearing for the respondent nos. 8-10 submits that the case run by the petitioners in the writ petition and the allegation levelled in the representation dated November 10, 2025 addressed, inter alia, to the Sub-Divisional Officer, Tamluk Irrigation Sub-division, do not match. It is submitted that while in the representation, the petitioners have alleged that the respondent nos. 10 and 11 have encroached upon a '*Metal Road*', the writ petition contains averments of encroachment over the land of the irrigation of waterways Department in front of the land of the petitioners.

5. It is further submitted that the case sought to be made out by the petitioner is inconsistent inasmuch as the writ petitioner has in the same breath alleged encroachment on the '*metal road*' and on Government land.

6. It is next submitted that neither the representation nor the writ petition indicates the statute under which a proceeding could be initiated on the basis of the allegations levelled against the private respondents.

7. Mr. Bhattacharyya further submits that this writ petition should not be entertained. It is

submitted that since it is the petitioners' case that the land over which they allege unauthorized occupation and encroachments belongs to the Government and not to him, therefore, in terms of Section 34 of the Specific Relief Act, 1963, the instant writ petition cannot be maintained by them as they have admittedly no right over the subject land.

8. Learned Advocate appearing for the State respondents submits that she has not yet received any instructions from the respondent nos. 2 to 5; however, she has instructions from the Police Authorities who have no role to play in the matter.

9. Heard the learned Advocates appearing for the respective parties and considered the material on record.

10. An allegation of encroachment over the Government land has been levelled and a representation in such regard has been made to the Sub-Divisional Officer, Tamluk Irrigation Sub-Division. As to whether there is merit in the representation made to the said authority or not, would be for the said authority to consider, in accordance with law. However, since a representation has been made to the Sub-Divisional Officer, Tamluk and it contains allegations of encroachment upon Government

land it is the duty of Sub-Divisional Officer, Tamluk to pay attention to such a representation and to take appropriate steps if the representation projects truth.

11. Non mentioning of the relevant statute in the representation or in the writ petition would not impede exercise of power by a statutory authority if the basis to exercise such power otherwise exists. The point that the writ petition should not be entertained in view of the provisions of Section 34 of the Specific Relief Act, 1963 also cannot detain the court for long. The writ petitioners in the present writ petition have not sought for declaration of any right in respect of the subject land. They have only raised a grievance against the inaction of the respondent authorities in taking steps against the alleged encroachment of Government land despite the petitioners having made representation complaining about such encroachment over the public land. It is now well settled that any citizen of the country can invite the attention of the relevant statutory authority to any encroachment upon or unauthorized occupation of Government land and a writ petition can then be maintained to the limited extent of compelling the appropriate statutory authority to discharge its statutory obligation of removing the

encroachment and unauthorized occupant, if any. In that view of the matter the provisions of Section 34 of the said Act of 1963 are not at all attracted to the facts of this case. The writ petition is, therefore, entertained.

12. This court, therefore, directs the Sub-Divisional Officers, Tamluk Irrigation sub-Division (the Respondent No. 4) to consider the petitioners' representation and take appropriate steps in accordance with law. If the said Authority finds that the allegation levelled by the petitioners is meritorious then the respondent no. 4 shall initiate appropriate proceedings under the relevant Statute including the West Bengal Public Land(Eviction of Unauthorized Occupants) Act, 1962 and ensure completion thereof in accordance with law. It is clarified that if any proceeding for eviction and removal of encroachment over the Government land is initiated, all interested parties including the petitioners and the respondent nos. 10 and 11 shall be permitted to state their respective cases before the Sub-Divisional Officer in accordance with law before the final decision is taken.

13. It is clarified that this court has not gone into the merits of the matter including the point of applicability of the West Bengal Public

Land(Eviction of Unauthorized Occupants) Act, 1962 and all points are left open to be urged before the Sub-Divisional Officer, Tamluk Irrigation Sub-Division and to be decided by the said Authority in accordance with law.

14. Needless to mention that if any proceeding for eviction and removal of encroachment is initiated under any Act or Statute, the same shall be concluded in accordance with law within a period of twelve weeks from the date of communication of this order after affording an opportunity of hearing to all concerned.

15. Since affidavits have not been directed to be exchanged, therefore, allegations made in the writ petition shall be deemed not to have been admitted by the respondents.

16. WPA 195 of 2026 stands disposed of with the above observations. No costs.

(Om Narayan Rai, J.)