

Form J(2)

**IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side**

**Present :
The Hon'ble Justice Bibek Chaudhuri**

WPA 15179 of 2023

**Sri Atish Chandra Das
Vs.**

The State of West Bengal & Ors.

For the petitioner : Mr. Debasish Das,

For the State : Mr. Chandi Charan De

Judgement on : 17.10.2023.

Bibek Chaudhuri, J.

In the instant matter in spite of service of notice upon the learned Advocate on behalf of the State respondents, the concerned learned Advocate has not appeared when the matter is taken up for hearing.

Mr. Chandi Charan De, learned Additional Government Pleader is present in Court. This Court requires Mr. De to assist this Court on behalf of the State respondents. Learned Advocate for the petitioner is directed to serve a copy of the writ petition to Mr. De. Appointment of Mr. De be regularized by the learned Legal Remembrancer, Government of West Bengal.

The learned Legal Remembrancer be also informed that some learned Advocates in the panel of the State Government in spite of allotment of work do not appear. One such Advocate is Mr. Wasim Ahmed and Mr. Shehabuddin who were allotted with the case to represent the State Government but they are not present when the matter is called. The learned Legal Remembrancer is directed to take necessary step in accordance with law and if require, the said learned Advocates may be removed from the panel.

It is the case of the petitioner that the petitioner has his dwelling house over Plot No.449, JL No.34 of Mouza Dal Alua within Police Station Egra in the District of Purba Midnapore. Some portion of the petitioner's land was acquired by the State Government and a State Highway running from Egra to Ramnagar has been constructed. In between the residential house of the petitioner and the metal portion of the said State Highway, there are allegedly some unauthorized construction made by private respondent Nos.11 to 14. For such construction, ingress and egress of the petitioner to and from his house is being obstructed. The petitioner made representation to the jurisdictional Executive Engineer and the Assistant Engineer that Tamluk Highway Division Bench and Contai Highway Sub-Division respectively for redressal of his grievance and removal of the alleged encroachment. But nothing has

been done by the respondent Nos.5 and 6. So is the instant writ petition.

The learned Additional Government Pleader submits that Section 10 of the West Bengal Highways Act, 1964 is absolutely clear on the point that if any person is found to have made an encroachment on the road, street, path, way or lane which is declared to be a Highway under sub-section 1 of Section 3 he shall be served with a notice by the Highway Authority to remove the encroachment and restore the Highway to its original condition within a period specified in the notice and if the illegal encroacher fails to remove the unauthorized construction, he will be removed.

Having heard the learned Advocates for the parties, the instant writ petition is disposed of directing respondent No.6 to consider the representation lying at page No.14 and 15 of the instant writ petition within a period of 60 days and take positive decision as to whether there was any encroachment or not. If there is any encroachment found on the subject land the authority shall proceed under Section 10 of the State Highways Act.

(Bibek Chaudhuri, J.)

**Mithun.
A.R. (Ct).
SI No.07.**