

(2025) 07 CAL CK 0769

In the Calcutta High Court, Original Side

Case No : FMA No. 400 Of 2025 With I.A. No. CAN 1 Of 2025

Mamoni Panda

APPELLANT

Vs

State Of West Bengal & Ors

RESPONDENT

Date of Decision : 01-07-2025

Acts Referred:

Citation : (2025) 07 CAL CK 0769

Hon'ble Judges : Debangsu Basak, J;Prasenjit Biswas, J

Bench : Division Bench

Advocate : Samim Ahammed, Arka Maiti, Arka Ranjan Bhattacharya, Swapan Kr. Dutta, Rajat Dutta

Final Decision : Disposed Of

Judgement

Debangsu Basak, J

1. Appeal is at the behest of the writ petitioner and directed against order dated January 16, 2025 passed in WPA 19099 of 2024.
2. By the impugned order, learned Single Judge directed execution and implementation of an order dated March 6, 2024 passed by the Jurisdictional Sub-Divisional Officer.
3. There is an issue of unauthorized encroachment on a public highway. Order dated March 6, 2024 of the Jurisdictional Sub-Divisional Officer, found unauthorized encroachment on a public highway and directed removal thereof. Writ petitioner approached the Writ Court for the purpose of implementation of such order dated March 6, 2024 which resulted in the impugned order before us.
4. Learned Single Judge directed implementation of the order dated March 6, 2024. Learned Single Judge on being informed that, there may be an appeal directed against order dated March 6, 2024 pending, directed that, in the event no appeal is filed, then the order dated March 6, 2024 must be implemented.
5. Learned advocate appearing for the appellant submits that, the appellant is

aggrieved by the portion of the impugned order dated January 16, 2025 which speaks of the appeal.

6. Learned senior advocate appearing on behalf of the State and its authority submits that instructions that, there is an appeal pending before the concerned District Magistrate under the provisions of the Highways Act, 1964.

7. Since there is an appeal directed against the order dated March 6, 2024 pending under the Act of 1964, justice demands its disposal prior to the order being implemented. It would, therefore, be in the interest of justice to direct the Appellate Authority, being the District Magistrate, to hear and dispose of such appeal preferably within a period of six weeks from date. We are passing these directions in view of the fact that we are informed that the appeal is pending since March 15, 2024.

8. Needless to say that, while deciding the appeal, the appellate authority will afford a reasonable opportunity of hearing to the appellant before us as also the parties to the appeal. The Appellate Authority is also at liberty to hear such other parties and consult such documents as it deems appropriate. It will pass a reasoned order which it will communicate to the parties it heard forthwith thereafter. The Appellate Authority will endeavour to complete the entire exercise within a period of six weeks from date.

9. It is imperative that encroachment, if there be any, on public highway, be removed as expeditiously as possible.

10. FMA 400 of 2025 along with the connected application being CAN 1 of 2025 stands disposed of without any order as to costs.