
(2019) 12 CAL CK 0026
In the Calcutta High Court
Case No : Writ Petitions (WP) No. 18623 (W) Of 2019

Sibu Patra

APPELLANT

Vs

State Of West Bengal & Ors

RESPONDENT

Date of Decision : 05-12-2019

Acts Referred:

West Bengal Highways Act, 1964 — Section 10, 10(1)

Citation : (2019) 12 CAL CK 0026

Hon'ble Judges : Subrata Talukdar, J

Bench : Single Bench

Advocate : Sabyasachi Hazra, Sabyasachi Hazra, Ayan Banerjee

Final Decision : Disposed Of

Judgement

Subrata Talukdar, J

Party/parties is/are represented in the order of their name/names as printed above in the cause-title.

The petitioner is aggrieved by proceedings initiated under the West Bengal Highways Act, 1964(for short the 1964 Act) and, particularly Section 10(1) thereof.

The petitioner, represented by Mr. Hazra, learned Advocate, submits that summary eviction by invoking Section 10(1) of 1964 Act cannot be resorted to by the State-Respondents.

Referring to a Notice dated 27th November, 2019 of the Assistant Engineer, PWD, Tamluk Sub-Division addressed to the petitioner, learned Advocate for the petitioner submits that by invoking Section 10(1) of 1964 Act, the petitioner has been called upon to remove/demolish the structure failing which the structure shall be removed to the satisfaction of the Highway Officer on or before 6th of December, 2019, i.e. tomorrow.

Learned Counsel for the petitioner further submits and, to the mind of this Court

correctly so, that the notice dated 27th of November, 2019 which is produced today at the hearing is de hors the scheme of the 1964 Act.

Mr. Banerjee, learned Counsel, appears for the State-Respondents and submits that the proceedings initiated under Section 10 of the 1964 Act be allowed to be taken to their logical conclusion.

Having heard the parties and considering the materials placed, this Court finds that the notice dated 27th of November, 2019 conveys and intended action on the part of the concerned Respondent-Authorities which is in- excess of the provisions of Section 10(1) of the 1964 Act.

In the event the notice dated 27th November, 2019 and the action impugned in the writ petition is allowed to be given effect to, the Scheme of the 1964 Act shall stand frustrated.

In the above view of the matter, although the proceedings initiated under Section 10 of 1964 Act are not stayed, the notice dated 27th November, 2019 Vide Memo. No. 762/RP-I of the Assistant Engineer PWD, Tamruk Sub-Division is treated as a notice only under Section 10(1) of the 1964 Act. It is further directed that the concerned Respondent-Authorities shall follow the course of action strictly provided by law under the 1964 Act.

The proceedings shall thereafter be concluded strictly in accordance with law and the Respondent-Authorities shall be then entitled to take consequential steps.

WP No. 18623 (W) of 2019 stands accordingly disposed of.

Since affidavits are not invited, allegations made in the writ petition are deemed not to have been admitted.

Affidavit of Service filed in Court today be retained with the record.

Urgent Photostat certified copies of this order, if applied for, be given to the parties upon compliance of all necessary formalities.