07.10.2026
Item No.7 & 8 (DL)
Court No.19
AJ.

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JRUISDICTION

WPA 15074 of 2026

Mrinal Aich & Ors.
-Vs-
The State of West Bengal & Ors.

with

WPA 23492 of 2026

Jayanti Dey & Ors.
-Vs-
The State of West Bengal & Ors.

Mr. Amal Kumar Banerjee.
...for the petitioners (WPA 15074 of 2026 & for the private respondents in WPA 23492 of 2026.

Mr. Prithu Dudhoria,
Mr. Bikramjit Mandal.
...for the State (WPA 15074 of 2026).

Mr. Debrup Chowdhury,
Syed Murshid Alam,
Mr. Basa Mir,
Sk. Aktar Hossain,
Sk. Abdulla Mondal,
Mr. Subrata Ghosh.
...for the private respondents in WPA 15074 of 2026 & for the petitioners in WPA 23492 of 2026.

Mr. Dinesh Chandra Singh,
Ms. Puja Sonkar.
...for the State (WPA 23492 of 2026).

1. Since in WPA 15074 of 2026 and WPA 23492 of 2026 the subject matters of dispute are identical and further the parties to the both the writ petitions are almost identical, this Court proposes to dispose of the instant two writ petitions by a common order and for that reason the instant two writ petitions being WPA 15074

of 2026 and WPA 23492 of 2026 are tagged together.

2. The affidavit of service as filed today on behalf of the writ petitioners in WPA 23492 of 2026 is taken on record.

3. The parties to the instant writ petitions are represented by their respective Counsel.

4. It is pertinent to mention herein that the writ petitioners in WPA 15074 of 2026 are the private respondents in WPA 23492 of 2026. Similarly the writ petitioners in WPA 23492 of 2026 are the private respondents in WPA 15074 of 2026.

5. By filing WPA 15074 of 2026 the writ petitioners have prayed for issuance of appropriate writ/writs against the respondent authorities more specifically against the respondent no.4 authority commanding him not to take any coercive steps against the writ petitioners in respect of their shop rooms which according to the writ petitioners are situated outside the ambit of the relevant highway.

6. By filing WPA 23492 of 2026 the writ petitioners have prayed for issuance of appropriate writ /writs against the respondent nos. 2 and 3 authorities to take appropriate steps for removal of the encroachment made on the State Highway by the writ petitioners of WPA

15074 of 2026 and/or by the private respondents of WPA 23492 of 2026.

7. At the time of hearing, Mr. Banerjee, learned Advocate appearing on behalf of the writ petitioners in WPA 15074 of 2026 at the very outset draws attention of this Court to page nos.36 to 40 of the instant writ petition being a copy of the order dated 31.10.2025 as passed by this Court in WPA 8189 of 2025 (Jayanti Dey & Ors. –Vs- The State of West Bengal & Ors.).

8. It is submitted by Mr. Banerjee that despite order passed by this Court, the jurisdictional BL & LRO conduced the field verification without serving prior notice upon the writ petitioners in WPA 15074 of 2026 and based on such demarcation report the jurisdictional Assistant Engineer being the respondent no.6 in WPA 15074 of 2026 issued a notice under Section 10(2) of the West Bengal Highway Act, 1964 (the said 'Act' in Short).

9. It is submitted by Mr. Banerjee that on account of deliberate violation of this Court's order dated 31.10.2025, the respondent no.6 authority ought not to have issued the said notice under Section 10(2) of the said Act upon the writ petitioners and thus on the basis of the said notice the respondent no.4 authority may be prevented from taking any coercive action

against the writ petitioners in WPA 15074 of 2026.

10. *Per contra* Mr. Dhudharia, learned Advocate appearing on behalf of the respondent State in WPA 15074 of 2026 and duly assisted by Mr. Mandal, learned Advocate in course of their submission have submitted a report of the jurisdictional SDO as forwarded to Mr. Mandal through whatsapp. It is jointly submitted by Mr. Dhudharia and Mr. Mandal that the allegation as made in WPA 15074 of 2026 is baseless inasmuch as from the report of the jurisdictional SDO it would reveal that pursuant to the submission of the demarcation report of the jurisdictional BL & LRO, a proceeding under Section 10(3) of the said Act has been initiated by the respondent no.4 authority wherein the writ petitioners in WPA 15074 of 2026 had appeared and they have raised an objection regarding the finding of the jurisdictional BL & LRO regarding alleged encroachment.

11. It is thus submitted on behalf of the respondent State that since the jurisdictional SDO being the respondent no.4 authority is *in seisin* over the matter, this Court ought not to have entertained the instant writ petition.

12. Learned Advocate appearing on behalf of the private respondents in WPA 15074 of 2026 and the writ petitioners in WPA 23492 of

2026 supports the contention of the writ petitioners.

13. It is submitted by Mr. Chowdhury, leaned Advocate appearing on behalf of the writ petitioners in WPA 23492 of 2026 that WPA 15074 of 2026 is filed to stall the proceeding as initiated under Section 10(3) of the said Act and as pending before the jurisdictional SDO as per order of this Court. It is further argued by Mr. Chowdhury that the ploy as adopted by the present writ petitioners in WPA 15074 of 2026 may not to be entertained.

14. On careful perusal of the entire material as placed before this Court and after hearing the learned Advocates for the contending parties, it appears to this Court that pursuant to the direction passed by this Court in WPA 8189 of 2025 the jurisdictional SDO has initiated a proceeding under Section 10(3) of the said Act after receipt of a request from the jurisdictional Assistant Engineer on account of non-compliance of the requisition of the notice under Section 10(2) of the said Act by the encroachers.

15. It further appears to this Court that jurisdictional SDO is at present *in seisin* over the proceeding under Section 10(3) of the said Act wherein the writ petitioners in WPA 15074 of 2026 have participated and they have raised their objection with regard to the finding of the

jurisdictional BL & LRO regarding alleged encroachment. It thus appears to this Court that in the event the writ petitioners have got any grievance with regard to the non-service of the notice by the jurisdictional BL & LRO at the time of causing field verification and/or field demarcation, the present writ petitioners in WPA 15074 of 2026 can very much agitate their grievance before the jurisdictional SDO.

16. In view of such, this Court considers that the instant writ petition is not only devoid of merit but also the same has been filed suppressing material facts possibly to stall the proceeding under Section 10(3) of the said Act as pending before the respondent no.4 authority in WPA 125074 of 2026.

17. In view of such, this Court dismisses the WPA 15074 of 2026 with costs of Rs.5,000/- each payable by the writ petitioners positively within seven working days from today with the Office of the learned Member Secretary, State Legal Services Authority. In the event, such cost is not deposited, the Court may initiate a *suo motu* Contempt proceeding against the writ petitioners in WPA 15074 of 2026.

18. Consequently, WPA 23492 of 2026 is hereby allowed directing the SDO, Kalna to dispose of the proceeding under Section 10(3) of the said Act being Proceeding No.01 (Eviction/

SDO, Kalna of 2026) positively within the last date of November 2026 without granting any adjournment to the writ petitioners in WPA 15074 of 2026.

19. Liberty is given to the learned Advocate for the writ petitioners in WPA 23492 of 2026 to communicate the server copy of this order to the SDO, Kalna who is directed to act on the server copy of this order.

20. Department is directed to forward a copy of this order to the Member Secretary, State Legal Services Authority forthwith.

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

(Partha Sarathi Sen, J.)