15.10.2026
Court No. 12
Item No.19
Sandip

MAT 1827 of 2026
With
CAN 1 of 2026

Utpal Bera
Vs.
The State of West Bengal & Ors.

Mr. Suddhadev Adak,
Mr. Bidan Modak
...for the Appellant.

Mr. Ghanshyam Pandey
... for the State.

1. The appeal is disposed of without any interference with the order impugned, as we find that the authority did not commit any procedural error. The authority also did not commit any illegality by undertaking the eviction programme of removing of unauthorised construction on plot no. 245 of Mouza – Hamarjita, which is a Government land, a public high way.
2. A proceeding was initiated under Section 10(3) of the West Bengal Highways Act as the said plot no. 245 falls within the Highway. Such proceeding was initiated pursuant to the direction of the High Court. The person responsible for such construction on the highway was one Khokan Kumar Bera, who was served with a notice under Section 10(1) of the West Bengal Highways Act, 1964 dated March 25, 2026 issued by the Assistant

Engineer, Contai Highway Sub-Division Public Works (Roads) Directorate.

3. A proceeding was initiated before the Sub-Divisional Magistrate, Egra and an order was passed. The encroachers were directed to remove their encroachment from Government land belonging to Contai Highway Sub-Division PWD (Roads) on L.R. Plot No. 245 of Mouza-Hamarjita within 15 days from the order passed by the Sub-Divisional Magistrate, Egra dated August 12, 2026. In the event the encroachers failed to remove the encroachment, the Block Land and Land Reforms Officer was directed to remove the same, recover possession and take the expenses from the illegal encroachers. The Assistant Engineer, Contai Highway Sub Division, PWD (Roads) was directed to provide technical and non-technical support to the Block Land and Land Reforms Officer, Egra – I. The Block Development Officer Egra - I was directed to act as Executive Magistrate for the process. The Inspector-in-Charge, Egra Police Station was directed to provide all sorts of assistance in the process of removal of the eviction. The aggrieved person was directed to approach the appropriate forum. The law provides for a remedy by way of an appeal. The appellant did not take recourse to such provision.

4. Mr. Adak, learned advocate for the appellant submits that he had purchased L.R. Plot No. 260 from said Khokan Kumar Bera and as such the appellant was entitled to a notice.

5. The appellant purchased the property bearing L.R. plot No. 260. He did not have any interest over the encroached structures by virtue of the deed of transfer. The illegal encroachment was done by Khokan Kumar Bera who was duly heard.

6. We find that Eviction Case No. 207(A) of 2026, was initiated and an eviction programme was fixed on October 13, 2026 at 11 A.M. Challenging such proceeding and the actions of the respondents the writ petition was filed. The learned Judge held that, as the State was going to execute the order in respect of plot no. 245 and not in respect of plot no. 260 no order was required to be passed in the said writ petition. The record of rights reveal that Utpal Bera, the appellant has raioti interest over 0.0300 acres pertaining to Khatian No. 1118 and the said plot 260 is recorded as a 'Jal'. In the record of rights annexed to the stay application at page 16 thereof.

7. Under such circumstances, we not only dismiss the appeal, but also record that plot no. 260 has been classified as 'Jal' in the finally public record of rights.

8. The contention of the appellant that an opportunity of being heard should have been given to him, is misconceived. The person responsible for such encroachment was heard and the proceeding was reached to its logical conclusion. Utpal Bera is also unable to satisfy us whether the transfer of plot no. 260 has taken place after the matter was before the High Court in the earlier rounds of litigation.

9. Accordingly, the appeal and the connected application are dismissed.

10. Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Shampa Sarkar, J.)

(Arjun Ray Mukherjee, J.)