

D/L- 10
21/04/2026
Ct. No.-19
Aritra

WPA 8477 of 2026

**Sree Chaitanya Gaudiya Math & Anr.
Vs.
The State of West Bengal & Ors.**

Mr. Lalratan Mandal
Mr. Prasanta Behari Mahata
Mr. Dilip Kumar Sadhu

....for the petitioners

Mr. Jayanta Samanta
Mr. Tarun Kumar Sur

....for the State

Mr. Biswarup Biswas
Mr. Pradip Kumar Ghosh

....for the respondent Nos.9-12 & 14-20

Affidavit of service filed in Court today is taken on record.

Written instruction of the Special Land Acquisition Officer, Nadia dated April 13, 2026, filed by the learned advocate for the State is kept with the record.

Mr. Biswas, learned advocate appearing for the private respondents raises an objection as to the entertainability of this writ petition. He submits that the petitioner has prayed for implementation of an order passed by the District Magistrate, Nadia, dated January 21, 2026 in an appeal filed by the petitioners under Section 10(4) of the West Bengal Highways Act, 1964.

By referring to the provisions of Section 10(4) of the 1964 Act, Mr. Biswas would contend that it is only a person responsible for the encroachment, who can prefer an appeal under Section 10(4) of the 1964 Act.

There is no quarrel to the aforesaid proposition of law in view of the express language used in sub-section (4) of Section 10 of the 1964 Act which starts with the phrase “if the person responsible for the encroachment is aggrieved by the order of the Magistrate under sub-section (3)”.

This Court holds that it is only a person who was found responsible for the encroachment and aggrieved by the order of the District Magistrate passed under Section 10(3) of the 1964 Act who can prefer an appeal under Section 10(4) of the 1964 Act.

In the case on hand, the Sub-Divisional Executive Magistrate, Sadar, Nadia passed an order under Section 10(3) of the 1964 Act dated December 28, 2023 with a request to the authorities to explore if the alleged encroachment being away from the path at plot No.2937 can be considered for vacation under the West Bengal Public Land (Eviction of Unauthorised Occupants) Act, 1962.

Thus it appears that the Sub-Divisional Executive Magistrate, Sadar, Nadia expressed the view that a proceeding under the 1964 Act is not maintainable.

The petitioner has alleged encroachment upon the land of the PWD adjacent to R.S. Dag No.2368, 2369 corresponding to L.R. Dag No.3470, 3471 and 3472 along with other plots of Mouza-Radrapara on the ground that the same is causing obstruction to the ingress and egress of the petitioner/Math from their property to the main

road. Though the petitioner has prayed for a direction upon the respondent authorities to remove the encroachment pursuant to the order dated January 27, 2026, but the larger issue would be whether the authorities can shut their eyes if there has been any encroachment upon the public land or PWD road.

On a bare perusal of the order of the Sub-Divisional Executive Magistrate, Sadar, Nadia, dated December 28, 2023, it appears that the said authority requested the concerned authorities to explore as to whether the alleged encroachment can be removed in exercise of powers under the 1962 Act.

The Sub-Divisional Officer, Krishnanagar, Sadar Sub-Division, being the respondent No.6 is directed to file a report with regard to the allegation contained in the writ petition insofar as the encroachment upon the Government land adjacent to the property of the petitioner is concerned. The report shall indicate the steps taken, if any, pursuant to the order dated December 28, 2023.

Let such report in the form of an affidavit be filed on or before **May 15, 2026**, when the matter will appear under the heading “**For Orders**”.

(Hiranmay Bhattacharyya, J.)