

Court No. 19
(265719)

16.06.2026
(AD 38)
(S. Banerjee)

WPA 13245 of 2026

Sukumar Rana & Ors.
Vs.
The State of West Bengal & Ors.

Mr. Subhojit Saha
Ms. Sahana Aktar
Mr. Saptarshi Samanta
...for the petitioners

Mr. D. N. Ray, Ld. GP
Mr. Atanu Basu
...for the State

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

The order dated May 29, 2026 passed by the Sub-Divisional Magistrate, Tamluk, Paschim Medinipur under Section 10(3) of the West Bengal Highways Act, 1964 is under challenge in this writ petition.

The petitioners allege that the copy of the order impugned has been served by the police authorities only on June 8, 2026 and the police authorities have directed the petitioners to remove the encroachment as directed by the order dated May 29, 2026 within three days.

Learned advocate appearing for the petitioners further submits that the order impugned was passed

without giving any effective opportunity of hearing to the petitioners.

On a bare perusal of the order dated May 29, 2026, this Court finds that the encroachment from several plots including the raiyati plot has also been directed to be removed.

On a query of the Court as to how a direction for removal from a raiyati plot could have been passed in exercise of powers under Section 10(3) of the 1964 Act, the learned Government Pleader seeks an accommodation to revert back with necessary instructions.

The larger issue would be whether the right of appeal to a person aggrieved against an order passed under Section 10(3) of the 1964 Act, can be rendered otiose by not serving copy of the said order to the person affected.

At this stage no material has been produced before this Court to show that copy of the order impugned has been served upon the petitioners prior to June 8, 2026.

However, since a jurisdictional issue has been raised by the petitioners in this writ petition, this Court is inclined to entertain this writ petition.

The learned Government Pleader prays for two weeks' time to revert back with necessary instructions.

List this matter under the heading 'For orders' in the Monthly List of July, 2026.

Prima facie it appears to this Court that principles of natural justice has been grossly violated in the instant case.

There shall be an order of stay of operation of the order dated May 29, 2026 passed by the Sub-Divisional Magistrate, Tamluk, Purba Medinipur in case no. 5 of 2026 under Section 10(3) of the West Bengal Highways Act, 1964 till the end of the month of July, 2026 or until further order, whichever is earlier.

(Hiranmay Bhattacharyya, J.)