



Form No. J(2)

In the High Court at Calcutta
Civil Appellate Jurisdiction
Appellate Side

Present: The Hon'ble Justice Sabyasachi Bhattacharyya
And
The Hon'ble Justice Supratim Bhattacharya

MAT 1031 of 2026
IA No: CAN 1 of 2026

Raju Das
Vs.
Bidyut Kumar Sardar

For the appellant : Mr. Tapash Kumar Mandal
For the respondent : Mr. Anindya Lahiri, Snr. Adv.,
Ms. Pranati Das
Heard on : 09.07.2026
Judgment on : 09.07.2026

Sabyasachi Bhattacharyya, J.:-

1. The present appeal has been preferred against an order whereby the appellant, the District Engineer of the South 24 Parganas Zilla Parishad, has been added as a party to a contempt proceeding.
2. The genesis of the case is a judgment dated May 16, 2025 passed in WPA 10034 of 2024, whereby the writ petition of the present respondent was disposed of, directing the respondent no. 9 therein, that is, the concerned Sub-Divisional Officer (SDO) to initiate a proceeding under Section 10 of the West Bengal Highways Act, 1964



(for short, “the 1964 Act”), either by himself or by an officer authorized by him in this behalf, by serving due notice to the respondent no.11 in the writ petition (alleged encroacher) and/or any other person or persons as he may deem fit and proper, for removal of the encroachment, and restoration of the highway and/or government road to its original condition within a stipulated period.

3. Subsequently, the writ petitioner/present respondent took out a contempt proceeding, alleging that the order of the Court was not being complied with. In the said proceeding, the present appellant was not impleaded as a respondent/alleged contemnor.
4. During arguments in connection with the contempt proceeding, the writ petitioner/applicant in the contempt proceeding produced before learned Single Judge an order dated June 18, 2025 passed by the concerned SDO, Alipore Sadar, District: South 24 Parganas whereby, purportedly in consonance with the parent order, the SDO had authorized the present appellant, that is, the District Engineer of the South 24 Parganas Zilla Parishad, or any officer authorized by him in his behalf, to proceed under Section 10(1) of the 1964 Act, in pursuance of the parent order.
5. Upon such order being produced before the learned Single Judge, the learned Single Judge passed the present impugned order, directing impleadment of the appellant as a party to the contempt application.
6. Learned counsel for the appellant argues that the appellant, being the District Engineer of the South 24 Parganas Zilla Parishad, is not the



appropriate authority under the 1964 Act to initiate proceedings under Section 10(1) of the said Act. It is submitted that the concerned Executive Engineer (PWD Roads) is the appropriate authority to initiate such proceedings. Thus, it is contended that the impleadment of the present appellant was not tenable in the eye of law and ought to be set aside.

7. Learned senior counsel appearing for the respondent, at the outset, takes an objection as to maintainability of the present appeal. Learned senior counsel relies on an order dated May 21, 2026 passed by a coordinate Bench in MAT 777 of 2026, preferred against the self-same impugned order as that challenged in the present appeal, which was not entertained on the ground of maintainability, with the observation that the appeal did not appear to be maintainable under Section 19 of the Contempt of Courts Act, 1971 (for short “the 1971 Act”). Liberty, however, was given to the appellant to prefer an appeal against the parent order.
8. Learned senior counsel for the respondent argues that since no appeal has been preferred against the parent order pursuant to such leave, the present appeal against the self-same order is not maintainable.
9. Learned senior counsel hands over to the Court as well as to the learned Advocate appearing for the appellant copies of the order dated June 18, 2025 passed by the SDO, Alipore Sadar, which was apparently the premise on which the impugned order was passed,



directing the appellant to be impleaded in the contempt proceeding. It is submitted that in the teeth of such order, the appellant was necessarily to be impleaded in the contempt proceeding, since it is the appellant who was authorized in terms of the parent order by the concerned SDO to initiate a proceeding under Section 10(1) of the 1964 Act.

10. Upon a perusal of the said order dated June 18, 2025, this Court finds that there is substance in the contention of the respondent, inasmuch as the SDO had, by the said order, directed the present appellant or any officer authorized by him to initiate proceeding under Section 10(1) of the 1964 Act pursuant to the parent order passed by the Writ Court.
11. Thus, the learned Single Judge was justified in directing impleadment of the present appellant as a necessary party to the contempt proceeding.
12. The objection as to maintainability of the present appeal, however, cannot be entertained. The coordinate Bench had refused to entertain the previous appeal on the technical ground of maintainability, since, by the impugned order no punishment for contempt was meted out, thus taking the said appeal outside the ambit of Section 19 of the 1971 Act. However, such refusal, *per se*, cannot operate as a bar to the preference of the present appeal against the impugned order on merits, which is a regular Letters Patent/Mandamus Appeal as opposed to one under Section 19 of the 1971 Act. Even otherwise,



merely because the coordinate Bench granted leave to the appellant to prefer an appeal against the parent order does not necessarily exclude the right of the appellant to prefer the instant appeal against the impugned order as well.

13. However, on merits, we do not find any scope of interference, since we have already observed above that the present appellant was a necessary party in view of the order dated June 18, 2025 passed by the SDO, Alipore Sadar.
14. We make it clear that it will be open to the appellant, as and when the appellant appears before the Contempt Court, to urge all points, including whether the appellant is the appropriate authority under the 1964 Act to be directed to initiate any proceeding under Section 10(1) of the 1964 Act.
15. If such questions are raised, we are confident that the learned Single Judge taking up the contempt proceeding will deal with the same in accordance with law.
16. Be that as it may, there is no scope of interference in the present appeal.
17. Accordingly, MAT 1031 of 2026 is dismissed on contest in the light of the above observations, thereby affirming the order dated April 02, 2026 passed in CPAN 2011 of 2025 (in WPA 10034 of 2024), whereby the appellant was impleaded as a party to the contempt proceeding and directing the appellant to appear in the contempt proceeding.
18. CAN 1 of 2026 is consequentially disposed of.



19. There will be no order as to costs.
20. Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)

I agree.

(Supratim Bhattacharya, J.)