

03,SL,Ct.05.
09.09.2020
AJ.

W.P.A. 5789 of 2020
C.A.N. 1 of 2020
C.A.N. 1 of 2020 (Old C.A.N. 3784 of 2020)
C.A.N. 2 of 2020
(Through Video Conference)

Sri Nitya Gopal Pande
-Vs-
The State of West Bengal & Ors.

Ms. Deblina Lahiri,
Mr. Mrinmoy Chatterjee.
.....for the petitioner.
Mr. Susovan Sengupta,
Mr. Subir Pal.
.....for the State respondents.

The petitioner complains that his plot of land being L.R. Plot No. 440 of Mouza 170 Balia in the district of Nadia has been encroached upon by the Highways Authority without acquiring the same in accordance with law.

An interim order dated July 09, 2020 was passed in the present matter directing the competent officer of the West Bengal Highways Development Corporation Limited, the respondent no. 5 herein as well as the Block Land and Land Reforms Officer, the respondent no. 6 herein to visit the petitioner's property and to ascertain if the road construction work is being carried on by encroaching the petitioner's property. The respondent no. 6 by the said

order was directed to file the report of such inspection before this Court.

The said report has been filed. On perusal of the said report it appears that the respondent no. 6 caused an inspection/survey of said L.R. plot no. 440 but did not find any encroachment in the said plot of land by the Highways Authorities as alleged by the petitioners.

Ms. Lahiri, learned advocate appearing on behalf of the petitioner submits that the inspection of the said plot of land has been done without following the standard procedure of the land survey method and she sought to impeach the said report on the said ground.

The report suggests that there is no encroachment of the L.R. plot no. 440. The grounds on which Ms. Lahiri is trying to challenge the veracity of the said report cannot be investigated into in exercise of the jurisdiction under Article 226 of the Constitution of India. The petitioner however can very well challenge the correctness of the procedure adopted in preparing the said report before appropriate Civil Court.

The Highways Authorities during the pendency of the present writ application has issued notice under Section 10 of the West Bengal Highways Act, 1964 alleging that the petitioner has encroached upon the Government land.

Ms. Lahiri submits that her client has already filed an application being C.A.N. 2 of 2020 in the present writ petition challenging the said notice.

The issuance of the said notice raises a separate cause of action which cannot be joined in the present writ petition through a connected application.

Ms. Lahiri however ultimately seeks leave to withdraw the said application and to pursue the remedy of the petitioner against the said notice in accordance with law.

Leave as prayed for is granted to the petitioner. CAN 2 of 2020 is dismissed as withdrawn. However dismissal of the said application will not prevent the petitioner to challenge the said notice under Section 10 of the West Bengal Highways Act, 1964, in accordance with law.

In view of the report of respondent no. 6 nothing is left to be decided in the present writ petition.

With the above W.P.A. 5789 of 2020 and the connected application being CAN 01 of 2020 (old CAN 3784 of 2020) are disposed of.

There shall be no order for costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Biswajit Basu, J.)