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MAT 693 of 2020
Yudhisthir Pal & Ors.
Vs-
Ajay Chaudhuri & Ors.
with
IA No. CAN 1/2020 & CAN 2 of 2020

(Via Video Conference)

Mr. Dwaipayan Basu Mallick
Mr. Bijoy Bikram Das
..... for the appellants.

Mr. Lalit Mohan Mahato
..... for the State.

Mr. Amalesh Ray
Ms. Mousumi Bhawal
..... for the Respondent No.1.

Party/parties is/are represented in the order of their name/names as printed above in the cause title.

The appellants are alleged to be encroachers in respect of properties which belong to the State-Respondents. The attention of this Court is drawn to the order dated 5th November, 2020 passed by a Hon'ble Division Bench wherein and whereunder the Hon'ble Bench was pleased to direct the State-Respondents to produce the materials to establish that in this case removal of encroachments whether or not, Section 10 of the West Bengal Highways Act, 1964 (for the 1964 Act) has been adopted and complied with by the State-Respondents.

It is the contention of Mr. Basu Mallick, learned Counsel appearing for the appellants, that the process of removal can only take place by strictly and exhaustively following the provisions of Section 10 of the 1964 Act, otherwise not.

Mr. Mahato, learned State Counsel, submits that the process of identifying encroachment and classifying them as such has been initiated under Section 10 of the 1964 Act and submits that a period of two months would be required to complete such process.

Mr. Ray, learned Counsel appearing for the writ petitioners/the respondent No.1 in this appeal, points out to several documents connected to the stay application filed in the appeal to demonstrate that steps taken under Section 10(1) and 10(2) of the 1964 Act have been initiated and the only remaining part relates to extending police assistance for removing the encroachments.

Having considered the factual scenario as presented before this Court through both oral and written pleadings, at this stage this Court is persuaded to hold that the State-Respondents should directly and exhaustively complete the process of identifying, classifying and then removing encroachments, if any, following Section 10 of the 1964 Act inasmuch as such Act is statute specific.

It is accordingly directed that such exercise be completed by the State-Respondents with the cooperation

with the parties upon notice within an outer limit of two months from this date.

In view of the above discussion and for the above reasons, the impugned order dated 13th March, 2020 stands set aside.

Both the appeal and the application being **MAT 693 of 2020** along with **CAN 1 of 2020 and CAN 2 of 2020** stand accordingly **disposed of**.

All concerned parties shall act in terms of the copy of the order downloaded from the official website of this Court.

Urgent xerox certified copy of this order, if applied for be supplied to the parties on usual undertaking.

(Aniruddha Roy, J.)

(Subrata Talukdar, J.)