

12/02/2021
Item No.103
Court No.38.
AB

Through Video Conference

W.P.A. 2441 of 2021

Rafikul Islam & Anr.

Vs

The State of West Bengal & Others

Md. Younush Mondal ...for the Petitioners.

Mr. Chandi Charan De...for the State.

Affidavit of service filed in Court today be kept with the records.

In spite of service, nobody appears for the State. I find Mr. Chandi Charan De, learned Additional Government Pleader in Court. I request him to represent the State in this matter. His appointment should be regularized.

The petitioners say that a public road being Barasat Bypass is sought to be constructed on their land without any acquisition proceedings having been initiated for acquiring such land. The petitioners pray for issuance of a writ prohibiting the respondents from doing so.

I have heard Mr. De, learned Additional Government Pleader. It cannot be disputed that without initiating acquisition proceedings in respect of

a citizen's land, the State cannot take over such land for whatever purpose, be it public or otherwise.

Mr. De fairly submits that the State must initiate acquisition proceedings before it can take over possession of the land of the petitioners.

In view of the aforesaid, I dispose of this writ petition by issuing a Writ of Prohibition, prohibiting the respondents and each one of them whether by themselves or through their agents or servants or assigns or otherwise howsoever from constructing any road on the aforesaid plots of land of the petitioners or interfering with the petitioners' possession in respect of the said plots of land in any manner whatsoever, without initiating acquisition proceedings following due process of law.

Since I have not called for any affidavit, the allegations contained in the writ petition are deemed not to be admitted by the respondents.

WPA 2441 of 2021 is, accordingly, disposed of.

There will be no order as to costs.

Urgent Photostat Certified copy of this order, if applied for, be supplied expeditiously after complying with all necessary legal formalities.

(Arijit Banerjee, J.)

