

September 9, 2021

ARDR

(45)

WPA 12736 of 2021

Monoj Kumar Mitra
Vs.
Union of India & Ors.

Mr. Uday Chand Jha,
Mr. Avijit Bhunia,

...for the petitioner.

Ms. Manika Roy,

...for the NHAI.

Mr. Rajen Dutta,

...for the UOI.

Mr. Jahar Lal De,
Mr. Shamil ul Bari,

...for the State.

Heard the learned counsels for the parties.

The grievance of the petitioner is that the National Highway Authority of India has acquired a portion of the land of the petitioner measuring about 0.016 acres and the remaining portion of the land measuring about 0.019 acres is in possession of the petitioner. The authority is trying to encroach upon the portion of land which has not been acquired and is in possession of the petitioner and has in fact illegally demolished the structure standing thereon.

The petitioner points out that he has filed a civil suit before the appropriate Court praying for a decree for permanent injunction restraining the authority from entering into the suit property and from disturbing the petitioner in his peaceful possession therein. The petitioner further prayed for ad-interim

order of injunction restraining the National Highway Authority from demolishing the building owned and possessed by the petitioner except the portion in respect of which compensation has been paid to the petitioner.

The petitioner further submits that during the pendency of the suit, authority issued notices upon the petitioner on 22nd September, 2020 and on 6th July, 2021 for removal of unauthorised occupation in the property.

The respondents submit that the petitioner approached the civil Court for stay of the said notices and such prayer of the petitioner was considered and rejected by the Court by orders dated 13th January, 2021 and 2nd August, 2021, respectively.

On careful consideration of the averments in the writ petition as well as prayers thereof, it appears that the subject matter pending before the civil Court is almost similar to that of the averments of the present application. The prayers of the petitioner herein are also similar to that of the civil suit which is pending before the appropriate forum.

As a civil suit with regard to the matter in issue is subjudice and all the points taken in the present application have already been taken by the petitioner therein, the present writ petition is not maintainable, being devoid of merit and, as such, be dismissed.

Accordingly, WPA 12736 of 2021 is dismissed.
However, there shall be no order as to costs.

Urgent certified website copy of this order, if applied for, be given to the parties upon compliance of all formalities.

(Suvra Ghosh, J.)