

MAT 841 of 2021
With
CAN 1 of 2021

Sri Ramdeb Shaw
Vs.
The State of West Bengal & Ors.
(Through Video Conference)

Mr. Debasish Das

... ... for the appellant

Mr. Jayanta Das
Mrs. Soumita Ghosh

... ... for the respondent no. 16

Mr. Chandi Charan De,AGP
Mr. Anirban Sarkar

... ... for the State

The present appeal is directed against the order dated 13th July, 2021 whereby the WPA No. 10453 of 2021 has been dismissed by the learned Single Judge on the ground of availability of the alternative remedy.

It is undisputed that the proceedings were initiated under Section 10 of the West Bengal Highways Act, 1964 on the ground that the appellant had encroached upon the highway. The competent authority i.e. the Executive Magistrate has passed the order dated 2nd November, 2020 reaching to the conclusion that the appellant had encroached and constructed the permanent structure on the PWD land and directed the appellant to vacate the government land.

The order dated 2nd November, 2020 was the subject matter of challenge at the instance of the

appellant before the learned Single Judge. The learned Single Judge has reached to the conclusion that the appellant had remedy of appeal against the order dated 2nd November, 2020. Hence, appellant has been directed to avail the remedy of appeal.

It is undisputed before this Court that under Section 10(4) of the Act the appeal lies against such an order. Hence, no error has been committed by the learned Single Judge in disposing of the petition on the ground of availability of the statutory remedy of appeal.

The limited prayer of the counsel for the appellant is to permit the appellant to file an appeal and to issue a direction to the appellate authority to decide the appeal within a time bound period.

Learned counsel for the respondents have no objection to the same.

Hence, the present appeal is disposed of granting liberty to the appellant to avail the remedy of appeal by filing the appeal before the appellate authority in terms of Section 10(4) of the Act. If such an appeal is filed by the appellant within a period of two weeks from today then the same will be considered and decided by the appellate authority in accordance with law as expeditiously as possible preferably within a period of three months from the date of filing of the appeal.

The instant appeal being MAT No. 841 of 2021 and connection application being CAN 1 of 2021 are disposed of accordingly.

Photostat certified copy of this order will be given to the parties, if applied for, on the usual undertakings.

(Prakash Shrivastava, C.J.)

(Rajarshi Bharadwaj, J.)