

WPA/9459/2020
Krishna Kinkar Ghosh
Vs.
State of West Bengal & Ors.

Mr. Sandip Kumar Bhattacharyya,
Mr. Suman Basu

... For the Petitioner.

Mr. Raja Saha,
Mr. Amit Kumar Ghosh

... For the State.

1. The petitioner claims to be carrying on the business of running a shop on a state highway. He has taken out this writ application challenging an order dated February 26, 2020 passed by the Sub-Divisional Magistrate, Arambagh under Section 10(3) of the West Bengal Highway Act, 1964.

2. The petitioner says that his land was never acquired by the Government. In support of this contention, the petitioner refers to various annexures to the writ petition. He says that consequently, no action could be taken against him or his land under the provisions of the West Bengal Highway Act, 1964.

3. I have also heard learned counsel for the State. He submits on instructions that one of the plots of the petitioner was acquired way back in the year 1954.

4. Be that as it may, I find from the order dated February 26, 2020 impugned in

this writ petition that the petitioner is not mentioned as one of the encroachers. If that be so, I wonder how the petitioner can be aggrieved by this order. However, Mr. Bhattacharyya, learned advocate representing the petitioner, submits that under the garb of the said order, all the people carrying on business in the locality in question including the petitioner are being sought to be removed.

5. Having considered the submissions of the parties and the facts and circumstances of the case, I grant liberty to the petitioner to approach the concerned District Magistrate as if he was going on appeal against the order dated February 26, 2020 under Section 10(4) of the 1964 Act. If the said appeal is filed within seven days from date, the District Magistrate shall consider the same on merits and dispose it of without going into the question of limitation or time bar. The District Magistrate shall hear such parties as he may deem necessary while disposing of the petitioner's appeal, if filed, and dispose of the appeal at an early date, preferably within six weeks from the date of filing of the same.

6. WPA 9459 of 2020 is, thus, disposed of.

7. Since no Affidavit-in-Opposition has been called for, the allegations contained in the writ petition are deemed not to have been admitted by the respondents.

(Arijit Banerjee, J.)