

April 18, 2022
ARDR
(58 & 59)

**RVW 18 of 2022
CAN 1 of 2022**

Chittaranjan Shit
Vs.
Sankar Charan Sahoo & ors.

**In
WPA 176 of 2022
CAN 1 of 2022**

Mr. Sumit Roy,
Mr. Sailen Naskar,
...for the applicant in Review.
Mr. Bharat Chandra Simai,
...for the writ petitioner.
Mr. Rabindra Nath Dutta,
Mr. Sanjay Ghosh,
...for the applicants (respondent nos. 10 to 15).
Mr. Lalit Mohan Mahata,
Mr. Supratim Dhar,
Ms. Jayeeta Sinha,
Mr. Sandip Mandal,
...for the State.

The report submitted by the State respondents is taken on record.

In the application being CAN 1 of 2022 filed by the 9th respondent praying for review of the order passed by this Court on 21st January, 2022 in WPA 176 of 2022, learned counsel submits that the matter pertains to the West Bengal Public Land (Eviction of Unauthorised Occupants) Act, 1962 and also, there is no averment in the writ petition which suggests the plot of land occupied by this respondent.

The report submitted by the State respondents this day demonstrates that the plots mentioned in the writ

petition are situated beside the Balighai-Mohanpur-Solpatta Road, which is under the control and administration of Tamluk Highway Division under Public Works Department, State Government and the land in question comes within the purview of the West Bengal Highways Act, 1964. Therefore, it can be concluded that this Court had determination to deal with the matter. The other submission made on behalf of 9th respondent is on merits of the writ petition which cannot be entertained by this Court in an application for review of the earlier order.

In CAN 1 of 2022 the respondent nos. 10 to 15 have prayed for setting aside the order dated 21st January, 2022 on two fold grounds:

Firstly, as the West Bengal Highways Act, 1964 is not applicable in this case and secondly, as the respondents were deprived of an opportunity to contest the writ petition.

The first prayer of the respondents/applicants has already been dealt with in observing that the matter pertains to the West Bengal Highways Act, 1964.

It is submitted that these applicants/respondents were unable to be represented before this court due to COVID – 19 Pandemic.

Record reveals that notice of the writ petition was served upon all the respondents and respondent nos. 9 to 14 reside in the same village of Khejurda, P.S. Egra,

District Purba Medinipur. Respondent no.15 resides in village Mirjapur, P.O. Balighai, which is under the P.S. Egra, Purba Medinipur. The respondent no.9 was represented in the writ petition all throughout. There is no cogent reason for non-representation of the other respondents in the writ petition. Also, all the respondents shall be granted an opportunity of hearing before the concerned authority in the proceeding under Section 10 of the Act of 1964. The writ petition was not disposed of on merits and the concerned authority was directed to consider the representation filed by the petitioner before the authority on 30th November, 2021 within a period of three months from the date of communication of the order after affording reasonable opportunity of hearing to all the interested parties including the petitioners and the private respondents, in accordance with law.

In view of the same, this Court is inclined to hold that the ground for review of the order dated 21st January, 2022 cannot be sustained in law and the submissions made on merits of the writ petition also cannot be entertained by this Court in an application for review, more so, as the order under review does not demonstrate any mistake or error apparent on the face of it or any other reasonable ground for review. This Court, under no circumstance, can sit in appeal against its own order in the garb of reviewing such order.

Accordingly, RVW 18 of 2022 and the application being CAN 1 of 2022 are dismissed.

Interim order granted on 8th April, 2022 stands vacated.

There shall however, be no order as to costs.

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

Learned counsel for the respondent nos. 10 to 15 prays for stay of the order.

Such prayer is declined.

(Suvra Ghosh, J.)