

14.03.2022
rc/ct.no.10
Item No.07

WPA No. 3396 of 2022
Ramdeb Shaw
Versus
The State of West Bengal & Ors.

Mr. Debasish Das ...for the petitioner

Mr. Jayanta Das
Mrs. Soumita Ghosh ...for the respondent no. 16

Mr. Chandi Charan De
Mr. Soumitra Bandyopadhyay
Mr. Anirban Sarkar ...for the State

Affidavit of service filed in Court today is taken on record.

It is contended by the learned counsel appearing on behalf of the petitioners that the order under Section 10(2) of the West Bengal Highways Act, 1964 (in short, the "**Act**") was passed by the Executive Engineer, Tamluk Sub-Division on November 02, 2020 against the petitioner which was challenged by the petitioner before this Court. By an order dated July 31, 2021 in WPA No. 10453 of 2021, a coordinate Bench of this Court dismissed the writ petition filed by the petitioner on the ground of availability of alternative remedy. The order was carried in appeal by the petitioner and by an order dated November 23, 2021 in MAT No. 841 of 2021 the Hon'ble Division Bench presided over by the Hon'ble the Chief Justice disposed of the appeal by granting liberty to the petitioner to prefer an appeal before the appellate authority in terms of Section

10(4) of the Act. The Hon'ble Division Bench further directed the appeal to be disposed of preferably within a period of three months from the date of filing of the appeal.

The petitioner submits that notice of appeal under Section 10(4) of the Act was issued on February 8, 2022 and the appeal is still pending.

During pendency of the appeal the Sub-Divisional Magistrate, Egra, Purba Medinipur has issued an order on February 16, 2022 directing the Assistant Engineer, Contai Highway Sub-Division, P.W.Department to demolish the unauthorised construction/ obstruction made by the petitioner herein within 7 days from the date of receipt of the letter.

It is submitted by the learned counsel appearing on behalf of the petitioner that the Sub-Divisional Magistrate, Egra, Purba Medinipur could not have passed such order during the pendency of the appeal. The petitioner prays for stay of the said order till the disposal of the appeal .

Learned counsels appearing on behalf of the respondents submits that there be a direction for expeditious disposal of the appeal and status quo be maintained by the parties in respect of the property till disposal of the appeal.

This Court is informed that the next date for hearing of the appeal has been fixed on April 28, 2022.

In view of the above, the writ petition is disposed of directing the concerned authority to dispose of the appeal

on merits after giving sufficient opportunity of hearing to all the interested parties including the petitioner and the private respondent within a period of one month from the next date of hearing.

The order dated February 16, 2022 passed by the Sub-Divisional Magistrate, Egra, Purba Medinipur be stayed till one week after disposal of the appeal.

Let there be also an order of status quo in respect of the nature, character and possession of the property in question upon both the parties as on this day till one week after disposal of the appeal.

With the above observations and directions this writ petition being WPA No. 3396 of 2022 is disposed of.

There shall be, however, no order as to costs.

Since no affidavit is invited, the allegations contained in the petition are deemed not to be admitted.

Urgent certified website copy of this order, if applied for, be furnished to the parties on usual undertakings.

(Suvra Ghosh,J)