

03. 17.11.2022
Ct. No.6
Tanmoy

MAT 649 of 2022

**Tapash Kumar Dutta @ Tapas Dutta
-Versus-
State of West Bengal & Ors.**

**With
IA No: CAN/1/2022
With
IA No: CAN/2/2022**

Mr. Sk. Samim Akhter, Adv.

...for the appellant.

Mr. Soumitra Bandyopadhyay, Adv.,
Mr. Prasanta Behari. Mahata, Adv.

...for the State.

Mr. Sankar Halder, Adv.

...for the respondent nos.6&7.

Mr. Mani Sankar Chattopadhyay, Adv.

...for the intervening party.

By consent of the parties, the appeal and the connected applications are taken up together for hearing by treating the same as on day's list.

In Re: IA No: CAN/1/2022

This is an application for condonation of delay of twenty six (26) days in filing the appeal, as noted by the Stamp Reporter. Causes shown being sufficient, the delay is condoned. The application being IA No: CAN/1/2022 is accordingly disposed of.

In Re: MAT 649 of 2022
With
IA No: CAN/2/2022

This appeal is directed against a judgment and order dated November 29, 2021, whereby the appellant's writ petition being WPA 10107 of 2020 was disposed of without any relief being granted to him.

The appellant approached the learned Single Judge with the case that the State Government had proposed to acquire the brickfield belonging to the appellant. The appellant draws our attention to certain correspondence exchanged between the Government departments in that regard. Apparently, the amount of compensation was also assessed. However, the fact remains, the brickfield of the appellant was never acquired.

There may have also been a suggestion that the Krishnagar Municipality will purchase the brickfield of the appellant for the purpose of settling therein ninety six homeless families by building quarters. However, that also did not go through and the appellant's brickfield was not purchased by the Municipality.

The appellant made a grievance before the learned Single Judge that his property should have been acquired. Accordingly, the appellant prayed for a writ of *mandamus* directing the Authorities to publish an award in his favour.

The learned Judge heard the parties and came to a conclusion that since the property of the appellant was in fact not acquired, no question of paying any compensation

to him can or does arise. The learned Judge also allowed a party, who contended that the property in question had been sold to him, to intervene. Registered Deed of Conveyance was produced before the learned Single Judge showing transfer of the property by the appellant to the intervener. The learned Judge of course recorded in the order that whether or not the writ petitioner has sold the concerned property to the intervener, is not an issue to be decided in the writ petition. The learned Judge observed that the writ petitioner has not been able to establish that the Municipal Authorities have acted contrary to law by violating any fundamental, legal or statutory right of the writ petitioner. Accordingly, in effect the writ petition was dismissed.

Being aggrieved, the writ petitioner is before us by way of this appeal.

We have heard learned Counsel for the appellant/writ petitioner as also learned Counsel for the Municipality, State and the intervener. One of the grievances ventilated before us on behalf of the appellant is that the learned Judge ought not to have entertained the intervener and should not have relied on documents produced by him. In our view, this grievance is neither here, nor there. The established fact is that neither the appellant's property was acquired, nor was it purchased by the Municipality. Hence, the question of the appellant being granted relief by way of

directing the respondents to pay any award amount or purchase price amount does not arise.

The appellant has no right in law to enforce which a writ of *mandamus may be issued*. There is no infirmity in the order of the learned Single Judge. It is a reasoned and well-considered order and warrants no interference.

Since we have not called for affidavits, the allegations in the stay petition shall be deemed not to have been admitted by the respondents.

The appeal being MAT 649 of 2022 and the connected application being IA No: CAN/2/2022 are accordingly dismissed.

Let urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with all necessary formalities.

(Apurba Sinha Ray, J.)

(Arijit Banerjee, J.)