

11.11.2022
rc/ct.no.10
Item No.20

WPA No. 8465 of 2022
with
CAN No. 1 of 2022

Mr. Amanul Islam
Mr. Sourav Mukherjee ...for the petitioners

Md. Sarwar Jahan
Md. Mobaidur Hossain
...for the applicant (for addition of party).

Mr. Soumitra Bandyopadhyay
Mr. P.B.Mahata ...for the State

Re : CAN No. 1 of 2022

The applicants seek to be added a party respondents to the writ petition on the ground that they had filed a writ petition alleging encroachment of Government land by the petitioners in the present writ petition and such writ petition has been allowed directing the concerned authority to proceed under Section 10 of the West Bengal Highways Act, 1964 (hereafter referred to as “the Act of 1964”) and conclude the proceeding within two months from the date of communication of the order after giving reasonable opportunity of hearing to all the interested parties including the petitioners and the private respondents therein. Pursuant to the said order proceeding under Section 10 of the Act of 1964 was initiated by the concerned authority and notice under Section 10(1) of the Act of 1964 was issued on September 03, 2021. In a subsequent writ petition filed by the applicants, this Court

stated that it was open to the authority to proceed with the proceeding under Section 10 of the Act of 1964 and take the proceeding to its logical conclusion within two months from the date of communication of the order.

Learned counsel appearing for the applicants submits that the present writ petition has been filed by the encroachers by suppressing the earlier orders of this Court.

In the present writ petition the petitioners have challenged the order passed by the authority under Section 10(3) of the Act of 1964. There is no whisper within the four corners of the writ petition that the said order was passed pursuant to the earlier orders passed by this Court in writ petitions filed by the applicants earlier.

In view of the above, this Court is inclined to hold that the applicants are necessary and proper parties to the writ petition and be impleaded as respondents no. 9 and 10 herein.

Accordingly this application being CAN No. 1 of 2022 is disposed of without any order as to costs.

Re : WPA No. 8465 of 2022

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

This writ petition is treated as on day's list and is taken up for hearing by consent of the parties.

The writ petitioners challenge the notice under Section 10(3) of the Act of 1964 issued by the Sub-Divisional Magistrate, Berhampur, Murshidabad on April 25, 2022.

Since the said notice has been issued in the proceeding pursuant to direction of this Court passed in earlier writ petitions and appears to be legal and valid, the question of setting aside the said notice does not arise.

In view of the same this Court is inclined to hold that the writ petition is devoid of any merit and is liable to be dismissed.

The Sub-Divisional Magistrate, Berhampur, Murshidabad is at liberty to proceed with the hearing under Section 10(3) of the Act of 1964 and pass necessary orders on merits upon hearing all the interested parties including the petitioners and the applicants herein, in accordance with law.

Accordingly, writ petition is dismissed.

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

Urgent certified website copy of this order, if applied for, be furnished to the parties upon compliance of necessary formalities.

(Suvra Ghosh,J)