

D/L
Item No. 3
04.08.2022
KOLE

MAT 979 of 2019
With
IA No. CAN 1 of 2019 (Old No. 8055 of 2019)
With
IA No. CAN 2 of 2019 (Old No. 8056 of 2019)

The State of West Bengal & Ors.

-Vs.-

Siraj Sk. & Ors.

Mr. Susovan Sengupta,
Mr. S. Pal

...for the appellants/State.

Mr. Gopan Ch. Ghosh,
Mr. R. Mondal,

...for the respondent nos. 2 to 5.

In Re: CAN 1 of 2019 (Old No. 8055 of 2019)

This is an application for condonation of delay of 372 days in filing the appeal. Causes shown being sufficient, the delay is condoned.

CAN No. 1 of 2019 (Old No. 8055 of 2019) is accordingly disposed of.

IN Re: MAT 979 of 2019 with
CAN 2 of 2019 (Old No. 8056 of 2019):-

By consent of the parties the appeal and the application are taken up for hearing together.

By the order impugned dated July 5, 2018, the Learned Single Judge set aside the order of the competent authority passed under the National Highways Act, 1956 and remanded the matter back to him to pass a fresh order in terms of Section 3H(4) of the 1956 Act. This, the learned Single Judge did, noticing that the competent authority purported to decide questions of title. It is clear from the

scheme of the 1956 Act that the competent authority has no power to decide questions of title. If disputes arise as regards title to a property, the competent authority is required to refer such dispute to the appropriate Civil Court for adjudication.

The State has come up in appeal contending that the father of the writ petitioners was a bargadar and the names of the writ petitioners have not yet been included in the record of rights. As such they could not maintain the writ petition or claim any compensation. It is also submitted that Section 3H(4) of the 1956 Act is not applicable to the facts of this case.

We are not impressed with the submissions made on behalf of the State. In any event the points urged by the State could be agitated before the competent authority when he considers the matter afresh on remand. We see no reason for the State to be aggrieved by the order under appeal. All that the learned Judge has done is remand the matter back to the competent authority for a fresh order being passed in accordance with law without going into questions of title.

We see no merit in this appeal. The appeal and the connected application are accordingly dismissed. There will be no order as to costs.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Rai Chattopadhyay, J.) (Arijit Banerjee, J.)