

39. 26.04.2022
Ct. No.06
Tanmoy

F.M.A. 73 of 2022
(M.A.T. 1113 of 2021)

Sri Debabrata Guria
-Versus-
State of West Bengal & Ors.

Mr. Supratik Shyamal, Adv.,
Mr. Dilip Kr. Shyamal, Adv.

...for the appellant.

Mr. Susovan Sengupta, Adv.,
Mr. Manas Kumar Sadhu, Adv.

...for the State respondents.

The appellant has preferred this appeal against the order of the learned Single Judge dismissing his writ petition.

The appellant says that he was an encroacher on Government land. The land, which he occupied, has been taken away for construction of a high level bridge. The Government has formulated a policy of compensating the encroachers who have lost land for the benefit of that project. In the list prepared by the Government, the appellant is also named. However, the compensation amount has not been paid to him.

The learned Single Judge dismissed the writ petition solely on the ground that the appellant was an encroacher on PWD's land and as such, according to the learned Judge, the appellant can have no claim to compensation.

In view of the documents disclosed by the appellant, we are of the opinion that the State should bring its stand on record by filing an affidavit. However, such affidavit be filed before the learned Single Judge to whom we are remanding back the matter for fresh consideration. Let such affidavit be filed within a week from date; reply thereto, if any, be filed within a week thereafter. The learned Judge having determination in the matter is requested to hear the writ petition afresh after taking into consideration the affidavits to be filed before him.

We make it clear that we have not gone into the merits of the appellant's claim. The learned Single Judge will be at liberty to decide the matter in accordance with law.

The order under appeal is set aside. The appeal being F.M.A. 73 of 2022 is accordingly disposed of.

(Kausik Chanda, J.)

(Arijit Banerjee, J.)