

September 15, 2022
AD 41
Court No.1
SG

MAT 1116 of 2021
with
CAN 1 of 2021
CAN 2 of 2021
CAN 3 of 2021

Sumita Mahapatra
vs
Niranjan Maity and others

Mr. Tapash Kumar Bhattacharya,
Mr. Purnasis Bhuniya, Advocates
... for the appellant

Mr. Samrat Sen, Sr. Advocate
Ms. Amrita Panja Moulick, Advocate
... for the State

Mr. Debasish Das, Advocate
... for respondent No.1

CAN 2 of 2021 has been filed by applicant seeking leave to appeal on the ground that the applicant was not made a party in WP 10706 (W) of 2019 wherein the order dated 22.08.2019 was passed but action has been initiated on the basis of that order. Considering the averments made in the application, CAN 2 of 2021 is allowed and leave is granted.

Since there is a delay of 741days in filing this appeal against the order dated 22.08.2019 passed in WP 10706 (W) of 2019, the application for condonation of delay has been filed being CAN 1 of 2021.

Considering the argument of learned counsel for the appellant and the plea taken in the application for condonation of delay, we find that good ground is made

out for allowing the prayer and condoning the delay. Hence, CAN 1 of 2021 is allowed.

Heard on merit.

Learned Single Judge by the order dated 22.08.2019 while allowing the writ petition at the instance of the private respondent, has requested the State authorities to complete the process initiated under the provisions of the West Bengal State Highways Act, 1964 (for short “the Act”) expeditiously. While passing the said order, learned Single Judge has taken note of the fact that notices under Section 10 of the Act were issued to the encroachers.

The plea of the appellant is that no notice under Section 10 of the Act has been issued to the appellant and yet she is under threat of demolition on the basis of the order of learned Single Judge.

Learned counsel for the State has fairly submitted that the appellant will be given due notice and opportunity of hearing before taking any action against her. He has also pointed out that against encroachers reflected in WP 10706 (W) of 2019 notice and opportunity of hearing were given and due proceedings under Sections 10(2) and 10(3) of the Act were taken.

Since submission of learned counsel for the State adequately protects the interest of appellant, no further direction in the matter is required at this stage.

Hence, we dispose of the present appeal without interfering the order of learned Single Judge and taking on record the stand of learned counsel for the State.

[Prakash Shrivastava, C.J.]

[Sugato Majumdar, J.]