

D/L
Item No. 36
17.06.2022
KOLE

**FMA 75 of 2022
With
IA No. CAN 1 of 2022
Rabiul Islam & Ors.
-Vs.-
The State of West Bengal & Ors.**

Md. Y. Mondal

...for the appellants.

*Mr. Jahar Lal De,
Mr. S. Dhar,*

...for the State.

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

This appeal is directed against an order dated August 5, 2021, whereby the learned Single Judge dismissed WPA No. 22208 of 2019.

The writ petitioners had approached the learned Single Judge with the prayer that the respondent authorities should be directed to pay compensation to them for acquiring their land. The State submitted that no portion of the land of the writ petitioners had been acquired. In support of such contention, the State relied on a letter issued by the appropriate authority under the Right to Information Act, copy whereof is at page 27 of the stay application. The learned Single Judge observed that since no acquisition proceeding had been initiated against the land of the writ petitioners, the question of paying compensation to the writ petitioners does not arise. Accordingly, the writ petition was dismissed. Being aggrieved, the writ petitioners are before us by way of this appeal.

Learned Advocate for the writ petitioners/appellants says that, in fact, the respondents have already taken possession of the part of the land of the writ petitioners. They apprehend that other portions of the land of the writ petitioners will also be taken by the respondents without paying compensation. Learned Advocate for the State disputes such submission.

Be that as it may, it cannot be disputed that without initiating acquisition proceedings in respect of a citizen's land, the State cannot take over such land for whatever purpose, be it public or otherwise.

Accordingly, we dispose of this appeal and the connected application by issuing a writ of prohibition, prohibiting the respondents and each one of them whether by themselves or through their agents or servant or assigns or otherwise howsoever from taking possession in any manner or interfering with the possession of the appellants in respect of their land without initiating acquisition proceedings following due process of law.

Since we have not called for affidavits, the allegations made in the stay application are deemed not to be admitted by the respondents.

The appeal and the connected application are accordingly disposed of.

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.)