

07.03.2022
Item No.9.
Court No.6.
AB

**F.M.A. 144 of 2022
With
I A CAN 1 of 2021**

Sri Siba Prasad Pradhan

Vs

Madhusudan Paik & Others

Mr. Salil Kr. Maiti,
Ms. Pinki Saha ...for the Appellant.

Mr. Raj Kumar Sain ...for the Respdt. 1 & 2.

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

It appears that a proceeding under Section 10(2) of the West Bengal Highways Act, 1964 has been initiated at the instance of the writ petitioner, who lodged a complaint before the concerned Officer on December 23, 2020, alleging construction of a pucca structure on P.W.D. road.

The writ petitioner prayed before the learned Single Judge for eviction of the unauthorised occupants and the demolition of the unauthorised construction alleged to have been constructed on P.W.D. road.

The learned Single Judge disposed of the writ petition with a direction upon the State authorities to

conclude the proceeding after giving a hearing to all the affected parties in accordance with law and as expeditiously as possible preferably within a period of three months from the date of the order.

The appellant/private respondent no.9 was represented before the learned Single Judge.

Before this Court, the appellant/private respondent no.9 sought to assail the order of the learned Single Judge on the ground that the complaint dated December 23, 2020, was based on false and frivolous allegations and as such, no proceeding under Section 10(2) of the West Bengal Highways Act, 1964 could have been initiated by the concerned authority.

We find that the learned Single Judge directed that the proceedings should be disposed of after giving an opportunity of hearing to all affected parties, which obviously includes the appellant/respondent no.9. The appellant/respondent no.9 can very well put forth his defence before the concerned officer at the time of hearing.

Needless to mention, as directed by the learned Single Judge, the proceeding shall be disposed of only after taking into consideration the stand of the appellant.

The impugned order does not call for any interference.

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

With the aforesaid observations, FMA No.144 of 2022 stands disposed of along with IA CAN 1 of 2021.

Urgent photostat certified copy of this order, if applied for, be supplied expeditiously after compliance with all the necessary formalities.

(Kausik Chanda, J.)

(Arijit Banerjee, J.)