

21.03.2022  
Item No.14.  
Court No.6.  
AB

**M.A.T. 1148 of 2021**  
**With**  
**I A CAN 1 of 2021**  
**I A CAN 2 of 2022**

**Bharat Yadav**  
**Vs**  
**The State of West Bengal & Others**

Mr. Mrinal Kanti Ghosh                      ...for the  
Appellant.

Mr. Susovan Sengupta,  
Mr. Subir Pal,  
Mr. Manas Kr. Sadhu              ...for the State.

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

Affidavit of Service filed in Court today be kept  
on record.

In re : IA CAN 1 of 2021

Having heard learned Counsel for the parties, we  
grant leave to the appellant to prefer this appeal.

IA CAN 1 of 2021 is, accordingly, disposed of.

In re : MAT 1148 of 2021

This is an appeal against an order dated August  
9, 2021, whereby the WPA No.19785 of 2019 and an  
application for intervention being CAN 1 of 2020 were  
disposed of. The intervenor before the learned Single  
Judge is the appellant before us.

The writ petitioners approached the learned  
Single Judge ventilating certain grievances against

acquisition of their land in question. The learned Judge, referring to a letter dated August 6, 2019 issued by the State Authorities, noted that the subject land is vested land and hence, the writ petitioners' grievance could not be entertained. The learned Judge noted that the land acquisition proceedings had been concluded. In view of disposal of the writ petition, the intervention application was not gone into.

The intervenor/appellant says that he purchased the land in question in 2015. The acquisition proceedings were initiated in 2016. No notice was served on the appellant perhaps because his name was substituted in the Record of Rights only in 2017. He says that as on the date of the acquisition, he was the owner of the land in question and, therefore, he should be entitled to the compensation. The learned Single Judge did not go into his grievances. Hence this appeal.

We have heard learned Counsel for the appellant as well as Mr. Sengupta, learned Counsel appearing for the State. The acquisition in question was under the National Highways Act, 1956. Section 3H of the Act provides a statutory remedy to the appellant to approach the competent authority with his grievance. The appellant will be at liberty to do so within two weeks from date. If the competent authority has not yet disbursed the amount of compensation, it shall not do so for a period of three weeks from date. If, in the

meantime, the appellant approaches the competent authority with appropriate application, the authority shall decide such application upon hearing all concerned parties including the writ petitioners herein and only thereafter will disburse the compensation amount to the person who is found to be entitled to such compensation.

However, if the competent authority has already disbursed the amount, then the remedy of the appellant would be to approach the civil forum against such person in whose favour the compensation has been disbursed.

We have not gone into the merits of the appellant's claim of ownership of the property in question as on the date of the acquisition. He shall naturally have to establish such ownership before the appropriate forum.

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

MAT No.1148 of 2021 stands disposed of along with IA CAN 2 of 2022.

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.)**