

6.
10-03-2022
debajyoti
(Ct. no.06)

**FMA 1370 of 2021
(MAT 1139 of 2019)
with
IA NO:CAN/1/2019 (Old No:CAN/12429/2019)**

**Netajee Mondal
Vs.
The State of West Bengal & Ors.**

Mr. Siddhartha Banerjee,
Mr. Chittapriya Ghosh,
Mr. Sudipta Nayan Ghosh

... For the Appellant.

Mr. T. M. Siddiqui,
Mr. D. Ghosh

... For the State.

Mr. Manish Kumar Das

... For the Respondent
Nos.6 and 8.

Mr. Bishajib Ghosh,
Mr. Bijoy Bag

... For the Respondent
Nos.9 to 11.

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

A detailed and reasoned order dated August 01, 2017, passed by the Bhagawanpur-II Block Development Officer, pursuant to an order of this Court passed in W.P.14236(W) of 2017, was challenged by the appellant before the learned Single Judge. The grievance of the writ petitioner before the BDO was that about 6ft. of his private land has been encroached upon by the State for the purpose of construction and widening of a public road. Further, some of his properties have been destroyed by the State.

The learned Judge considered the report of the BDO and observed that the BDO had passed a reasoned and detailed order after considering all the relevant facts and after giving hearing to all interested parties including the writ petitioner and the BDO has held that the grievance of the writ petitioner was without any basis. Further, no evidence was found of any destruction to the property of the writ petitioner. The learned Judge held that in such circumstances, there was no scope for the Writ Court to interfere. However, liberty was granted to the writ petitioner to approach the Civil Court or other appropriate forum in accordance with law to ventilate his grievance. Being aggrieved, the writ petitioner is before us by way of this appeal.

We have heard learned counsel for the parties. We have considered the order of the concerned BDO and it is indeed a detailed and reasoned order taking into consideration the Local Inspection Report submitted to him by the Block Land and Land Reforms Officer. The concerned BL&LRO with the help of the Amin conducted the exercise of measuring the land in question. We have no reason to hold that such report is erroneous. Indeed, sitting in writ jurisdiction, we are not able to enter into such factual disputes. The learned judge has rightly refused to interfere and has rightly relegated the writ petitioner to the civil forum.

Mr. Banerjee, learned advocate for the appellant, says that the writ petitioner is financially very weak and may not be able to approach the civil forum.

We have our full sympathies for the appellant. But sympathy cannot be the ground or basis for passing an order in a court of law. We are unable to

help the appellant in any manner. We see no infirmity in the order under appeal.

The appeal and the connected application are dismissed.

Affidavits not having been called for, the allegations in the stay petition shall be deemed not to have been admitted by the respondents.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

Urgent photostat certified copies of this order, if applied for, be supplied to the parties on compliance with all the necessary formalities.

(Kausik Chanda, J.)

(Arijit Banerjee, J.)