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04.11.2022
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W.P.A. 18702 of 2022
(Chandra Nath Ganguly vs. State of West Bengal & Ors.)

Mr. Kartick Kr. Bhattacharyya
Mr. Subhas Ch. Datta
Mr. Soumashree Dutta
.... For the Petitioner
Mr. Chandi Charan De
Mr. Anirban Sarkar
.... For the State

Affidavit of service filed by the petitioner is taken on record.

None appears for the private respondents despite service.

Report submitted by the State respondents is taken on record.

The order passed by the Sub-Divisional Magistrate and Sub-Divisional Officer, Tehatta on 20th June, 2022 is under challenge in this writ petition.

Learned counsel for the petitioner has assailed the said order on the ground that though the plot in question has been recorded as 'Rasta' as appears from the report of the Block Land and Land Reforms Officer, Tehatta, the order impugned holds that the West Bengal Highways Act, 1964 is not applicable in this case and

the Assistant Engineer, PW(Roads) is not the competent authority to deal with the matter.

It is evident from the documents on record including the order impugned that the plot in question is a Government land/Rasta and has been encroached upon by the private respondents who have their commercial establishments therein. The petitioner has alleged that such constructions have been made by the private respondents illegally by encroaching upon Government land adjoining his property, thereby obstructing his free egress and ingress.

Learned counsel for the State respondents submits that the matter is governed by the West Bengal Highways Act, 1964 and the competent authority be directed to deal with the same under the said Act.

Since admittedly the plot in question is recorded as 'Rasta' and is a Government land which is encroached upon by the private respondents, the observation made in the order impugned by the Sub-Divisional Magistrate and Sub-Divisional Officer, Tehatta cannot be sustained.

Accordingly, the order impugned dated 20th June, 2022 is set aside/quashed.

The Sub-Divisional Officer, Tehatta being the 11th respondent herein, is directed to take necessary steps under Section 10(3) of the Act of 1964 and take the proceeding to its logical conclusion within two months

from the date of communication of this order upon affording reasonable opportunity of hearing to all the interested persons including the petitioner and the private respondents, in accordance with law.

W.P.A. 18702 of 2022 is thus disposed of.

There shall be no order as to costs.

Since no affidavit has been invited, allegations contained in the writ petition shall be deemed not to have been admitted.

Urgent certified website copy of the order, if applied for, be given to the parties on compliance of requisite formalities.

(Suvra Ghosh, J.)