

D/L
Item No. 14
12.12.2022
KOLE

MAT 1378 of 2022
With
IA No. CAN 1 of 2022

Hemanta Kumar Sarkar
-Vs.-
The Union of India & Ors.

Mr. Swarup Banerjee,
Mr. Sajal Kr. Ghosh,
Mr. Arindam Chatterjee,

...for the appellant.

Mr. Sayak Ranjan Ganguly,

...for the UOI.

Mr. Chama Mookherji,
Mrs. Paramita Pal,

...for the State.

Affidavit of service filed in court today be kept with the records.

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

A Judgment and order dated July 25, 2022, whereby the appellant's writ petition being WPA 15307 of 2022 was dismissed is assailed in this appeal.

The appellant had earlier approached this Court by filing WPA 8525 of 2021, complaining that the concerned Panchayat was constructing a road after demolishing a portion of his property. The writ petition was disposed of by an order dated December 3, 2021, whereby the Pradhan of the concerned Gram Panchayat was directed to consider the representation filed by the appellant/writ petitioner and pass a reasoned order thereon. Accordingly, an order was passed by the Pradhan on April 21, 2022. Being aggrieved with that

order, the present appellant approached the learned Single Judge in this round of litigation.

The appellant submitted before the learned Single Judge that the order was not a reasoned order. No sufficient opportunity of hearing had been given to the appellant before the order was passed.

The learned Judge upon considering the order, which we have also considered, came to the conclusion and in our view rightly, that the order is a reasoned order and has been passed after observing the principles of natural justice. Sufficient hearing was granted to the appellant. The order was passed relying upon the report filed by the concerned Block Land & Land Reforms Officer (in short “the BL & LRO”). The report clearly stated that the road in question has been constructed without touching the land of the appellant. The learned Judge held that dispute with regard to encroachment on the writ petitioner’s land could not have been effectively decided by the Pradhan, who rightly relied upon the enquiry report, submitted by the BL & LRO.

The writ petitioner said that he had not been favoured with a copy of the field enquiry report of the BL & LRO. The learned Judge observed that it will be open for the writ petitioner to apply for obtaining the field enquiry report from the Pradhan and in the event such application is made, the Pradhan shall act upon the same.

The appellant says that he has already applied to the Pradhan for a copy of the field enquiry report on July 28, 2022. Such report has not yet been furnished to him. If that

be so, the appellant would be at liberty to take appropriate action for violation of the learned Single Judge's order.

We do not see any apparent infirmity in the order under appeal. The learned Judge has also granted liberty to the appellant to challenge the field enquiry report before the appropriate forum in the event the appellant is aggrieved by the same.

The order under appeal does not warrant any interference. There is no apparent illegality or procedural impropriety in the order.

The appeal and the connected application, accordingly, fail and are dismissed without any order as to costs.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Apurba Sinha Ray, J.) (Arijit Banerjee, J.)