

D/L
Item No. 6
22.09.2022
KOLE

**MAT 1511 of 2022
With
IA No. CAN 1 of 2022**

**Niranjan Bera
-Vs.-
Asutosh Panda & Ors.**

*Mr. Pampa Dey Dhabal,
Mr. S. Khatun,*

...for the appellant.

*Mr. Siddhartha Banerjee,
Mr. B. Pandit,
Mr. J. Rauth,*

...for the private respondent.

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

This appeal is directed against a judgment and order dated August 22, 2022, whereby the writ petition of the private respondents herein was disposed of.

An order was passed by the Competent Authority under Section 10(3) of the West Bengal Highways Act, 1964 (in short 'the 1964 Act') on August 5, 2022 and communicated to the writ petitioners on August 17, 2022. Assailing that order, the writ petitioners approached the learned Single Judge. In course of hearing, however, the writ petitioners stated that they would be preferring an appeal under Section 10(4) of the 1964 Act and some time should be granted for that purpose.

The learned Single Judge upon considering the submissions made on behalf of the parties disposed of the writ petition with the following directions:

“On consideration of the submission made by the learned counsels appearing on behalf of the parties the writ petition is disposed of with liberty to the petitioners to prefer statutory appeal before the appropriate forum under Section 10(4) of the Act within 15 days from the date of communication of the order i.e. August 17, 2022.

Pending institution of the appeal let there be no coercive action taken in terms of the order dated August 05, 2022 in respect of the plot in question by concerned authority/State-respondents.”

The private respondent in the writ petition has come up in appeal against the said order. It is submitted on behalf of the appellant that service of the writ petition was not effected on him. The order was obtained behind his back. This is disputed on behalf of the writ petitioners.

Be that as it may, we are told that the writ petitioners have already preferred an appeal under Section 10(4) of the 1964 Act. In the event, the appellant herein has not been made a party to the said statutory appeal, he shall be made party in that appeal so that he can participate in the appeal. The Appellate Authority shall dispose of the appeal by a reasoned order in accordance with law after giving full opportunity of hearing to all the parties including the appellant and the writ petitioners herein as expeditiously as possible and definitely within ten weeks from the date of communication of this order.

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

MAT 1511 of 2022 and CAN 1 of 2022 are, accordingly, disposed of.

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.)