

D/L
Item No. 14
05.12.2022
KOLE

**MAT 1747 of 2022
With
IA No. CAN 1 of 2022**

**Yusuf Seikh
-Vs.-
The State of West Bengal & Ors.**

*Mr. Samiul Bari,
Mr. H. Zaman,
Mr. Zeeshanuz Zaman,*

...for the appellant.

*Mr. Tapan Mukherjee, Sr. Adv.
Mr. S. Roy,
Mr. D. Ghosh,*

...for the State.

Mr. Tapash Kr. Mondal,

...for the Zilla Parishad.

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

This appeal is directed against an order dated October 17, 2022, whereby the learned Single Judge declined to grant *interim* relief to the appellant/writ petitioner. The learned Judge directed exchange of affidavits. Being aggrieved by the refusal to pass *interim* order, the writ petitioner has come up in appeal.

It appears that the writ petitioner carries on business of running a tea stall, which he says, is his only source of livelihood, on a plot of land which appears to be Government land. On the basis of a private complaint, proceedings were initiated against the appellant under the West Bengal Highways Act, 1964 and we are told that an eviction order has been passed against him. He has preferred an appeal

under Section 10(4) of the 1964 Act which is pending before the Appellate Authority.

The only prayer of the appellant is that his representation dated October 11, 2022, regarding long term settlement, made to the District Magistrate and Collector, South 24 Parganas, (page 46 of the stay application), should be considered and disposed of in accordance with law.

We think that this is an innocuous prayer. We accordingly direct the District Magistrate and Collector, South 24 Parganas, being the respondent no. 3 herein to take a reasoned decision on the appellant's representation dated October 11, 2022 (page 46 of the stay application), in accordance with law, within a period of twelve weeks from the date of communication of this order, after giving an opportunity of hearing to the appellant and all concerned parties. The decision so taken shall be communicated to the appellant and other concerned parties within a week from the date of the decision.

Learned Advocate for the Zilla Parishad, South 24 Parganas, says that the land in question is still recorded in the name of Zilla Parishad. He, however, admits that decision has been taken at the appropriate level for correction of the record of rights to show the State as the owner of the land.

We have not gone into the merits of the appellant's claim. The respondent no. 3 shall take an informed decision in accordance with law.

No useful purpose will be served by keeping the writ petition pending. Accordingly, the writ petition being WPA

No. 23263 of 2022, the present appeal being No. MAT 1747 of 2022 and CAN 1 of 2022 are 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.)