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jdt.

22.11.2022
jb.

W.P.A. 25467 of 2022
(Himangsu Sekhar Metia vs. State of West Bengal & Ors.)

Ms. Rama Haldar
.... For the Petitioner

Mr. Soumitra Bandyopadhyay
Mr. Srikanta Paul
.... For the State

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

Heard learned counsels for the parties.

The petitioner has assailed the order passed by the Sub-Divisional Magistrate, Egra on 19th October, 2022 under Section 10(3) of the West Bengal Highways Act, 1964.

It is submitted on behalf of the petitioner that pursuant to the said order, the State authorities as well as the police have reached the plot in question and are in the process of demolishing the structures of the petitioner standing in the said plot. According to the petitioner, the plot in question belongs to the petitioner and there has been no encroachment on any portion of the PWD land.

Upon consideration of the submission made on behalf of the parties, this Court is inclined to hold that since the order under Section 10(3) of the Act of 1964 is an appealable order, the petitioner may be granted liberty to prefer an appeal against the said order under Section 10(4) of the Act of 1964 and the concerned authorities be restrained from taking any steps for implementation of the order passed on 19th October, 2022 till disposal of the appeal. Accordingly the writ petition is disposed of with liberty to the petitioner to prefer an appeal under Section 10(4) of the Act of 1964 against the order impugned before the District Magistrate & Collector, Purba Medinipur being the 2nd respondent herein within 10 days from date. The 2nd respondent is directed to consider and dispose of the said appeal in accordance with law within one month from the date of filing of the same.

Pending disposal of the appeal, no coercive action shall be taken by the respondents against the petitioner in respect of the plot in question.

The writ petition 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.)