

23.12.2022  
Item No.6.  
Court No.6.  
AB

**M.A.T. 2034 of 2022  
With  
IA CAN 1 of 2022**

**Sri Soumyasundar Giri  
Vs  
The State of West Bengal & Others**

Mr. Saptangshu Basu, Sr. Adv,  
Mr. Balai Lal Sahoo,  
Mr. Sankha Prasad Roy ....for the Appellant.

Md. T. M. Siddiqui,  
Mr. N. Chatterjee .....for the State.

Mrs. Manika Roy,  
Mr. S. A. Munshi .....for the NHAI.

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

Affidavit of Service filed in Court today be kept with the records.

This appeal is directed against an order dated December 19, 2022, whereby the application for interlocutory relief filed by the writ petitioner being CAN 1 of 2022 was rejected. The writ petition was directed to be listed in the Monthly List of January, 2023, after exchange of affidavits.

The case of the appellant/writ petitioner is that he was the owner of 22 decimals of land. He sold 7½ decimals. The State acquired 9 decimals of land. In this connection, reference is made to page 74 of the stay petition.

The appellant says that he is the undisputed raiyat of 6 decimals of land. His immediate grievance, with which he approached the learned Single Judge by filing CAN 1 of 2022, is that the Contai Municipality has encroached on his land and threatens to further encroach on his land.

It appears from the affidavit of service filed in Court that learned Advocate, who represented the Municipality before the learned Single Judge, refused to accept service. The appeal papers have been sent to the Municipality through email. However, nobody appears for the Municipality.

We have heard learned Advocate for the State. He says that 0.22 acres of land (22 decimals) was acquired. The land has been made over to Public Works Department, National Highways Division.

There appears to be a dispute as regards the quantum of land that the State has acquired. We are not inclined to go into such factual disputes. The writ petition is due to come up before the learned Single Judge in January, 2023.

Further, since the land in question is not demarcated, we are not in a position to pass any effective restraint order against anybody.

Learned Advocate appearing for NHAI says that it has nothing to do with the land in question. The land is not in the custody of NHAI. She prays for expunging the name of NHAI from the array of parties.

She will be at liberty to make such prayer before the learned Single Judge.

No useful purpose will be served by keeping the appeal pending.

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

M.A.T. No.2034 of 2022 is, accordingly, disposed of along with IA CAN 1 of 2022.

Urgent photostat certified copy of this order, if applied for, be supplied expeditiously after compliance with all the necessary formalities.

**(Apurba Sinha Ray, J.)**

**(Arijit Banerjee, J.)**