

14.12.2023
Item No.27
Ct. No.5
CHC

**F.M.A. 48 of 2021
IA NO: CAN/3/2023**

**Bhim Sen Mondal
Vs.
The Competent Authority under the National
Highways Act, 1956 and the Additional District
Magistrate (L.A.) & ors.**

Mr. Pratik Dhar, Sr. Advocate
Mr. Arijit Dey
...for the appellant

Mr. Soumitra Bandyopadhyay,
Mr. Priyabrata Batabyal
...for the State respondents

Mr. Dipankar Das
...for the NHAI

Mr. Sayantan Bose,
Mr. Sattik Rout,
Mr. Shreyan Bhattacharyya
...for the respondent no.6

The appeal is directed against a judgment
and order dated January 16, 2020 passed in W.P.
No.12379(W) of 2015.

Learned Senior Advocate appearing for the
appellant submits that, although, by a judgment
and order dated September 27, 2023 passed in
FMA 52 of 2021, this Bench dismissed such appeal
and despite such appeal being filed against the
same impugned judgment and order as, the same
impugned judgment and order disposed of two writ

petitions, there are distinguishing features so far as the present appeal is concerned.

In elaborating the distinguishing features, he submits that, there is a distinction with regard to mutation. In the first appeal there was no mutation. On the basis of the mutation certain steps were taken in the present appeal. The other two distinguishable features are with regard to possession and compensation payable.

We find from the records that two writ petitions were filed by the same appellant as against the same respondents assailing processes in respect of different plots of land. The learned Single Judge heard and disposed of the two writ petitions by the impugned judgment and order dated January 16, 2020. The appellant preferred an appeal being FMA 52 of 2021 directed against the judgment and order dated January 16, 2020 passed in W.P. No.12379(W) of 2015. Appellant preferred the present appeal directed against the same impugned judgment and order passed in W.P.No.12379(W) of 2015.

Appeal being FMA 52 of 2021 was heard and disposed of in presence of the appellant. There, the appellant did not take the issues presently sought to be taken. It was also not point out that there was another appeal pending. In any event, the

appeal was directed against a common judgment and order, the points sought to be raised presently were not raised earlier.

We did not find any distinguishing feature as contended on behalf of the appellant to revisit our judgment and order dated September 27, 2023 passed in FMA 52 of 2021. Moreover, the appellant is bound by such judgment and order.

In such circumstances, FMA 48 of 2021 along with all connected applications are dismissed without any order as to costs.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)