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16.02.2023
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W.P.A. 2365 of 2018
(Abdul Kader Khan vs. State of West Bengal & Ors.)

Mr. Mukteswar Maity
.... For the Petitioner

None appears for the State respondents despite service.

Mr. Priyabrata Batabyal who is present in Court and usually appears for the State is requested to represent the State in this matter. His appointment be regularised by the office of the learned Legal Remembrancer.

The petitioner is directed to serve copy of the writ petition along with annexure thereto to Mr. Batabyal in course of this day.

Heard learned counsels for the parties.

The petitioner claims to be recorded owner of the plots in question and submits that a portion of the said plots have been utilised by the Irrigation and Waterways Department for constructing river embankment without acquiring the same or paying any compensation to the petitioner. The petitioner prays for a direction upon the concerned authority to hold a joint field verification of the plots in question in order to ascertain whether any portion of the petitioner's land has been utilised by the authority and for demarcation of such utilised portion.

It is submitted on behalf of the State respondents that such joint field verification shall enable the authority to identify the portion of the land utilised by them.

Upon consideration of the submission made on behalf of the parties, this Court is inclined to hold that the Executive Engineer,

Irrigation and Waterways Division being the 9th respondent herein be directed to hold joint field inspection of the plots in question in presence of the petitioner or his authorised representative in order to assess whether any portion of the said plots has been utilised by the authority without acquisition and the exact quantum of the same. Such exercise shall be completed within a period of three months from the date of communication of this order. Report of such field verification be placed before the 4th respondent for consideration of compensation, if any. In the event it is found that the land of the petitioner or any portion thereof has been utilised by the authority, necessary consequential steps be taken by the authority within a month thereafter upon affording reasonable opportunity of hearing to all the interested persons including the petitioner, in accordance with law.

It is made clear that this Court has not gone into the merits of the case and the petitioner shall be at liberty to place his contention as made out in the writ petition before the authority at the time of hearing.

With the aforesaid observations and directions the writ petition is 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.)