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jdt.

03.02.2023
jb.

W.P.A. 5009 of 2022
(Estar Hossain vs. State of West Bengal & Ors.)

Mr. Mukteswar Maity
Ms. Manika Sarkar
.... For the Petitioner

Mr. Soumitra Bandyopadhyay
Mr. R. C. Guchhait
.... For the State

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

None appears for the NHAI despite service.

The petitioner claims to be recorded owner of the plot in question and submits that pursuant to a notice under Section 3(G) of the National Highways Act, 1956 served upon him, the petitioner submitted a representation before the concerned authority on 21st April, 2010 which was not considered. Sometime in 2022, a local surveyor came to the petitioner's plot to survey the residential building of the petitioner and the petitioner, apprehending demolition of his building, submitted a further representation before the concerned authority on 4th March, 2022 requesting consideration of the matter. The petitioner prays for a direction upon the authority to consider the representation at the earliest and an order restraining the authority not to take any coercive action in respect of the plot in question till the representation is disposed of.

Placing reliance on the statement of facts submitted on behalf of the State respondents, learned counsel for the State respondents submits that upon demarcation of the plot in question it was detected that a portion of the petitioner's house has been raised

by encroaching upon the national highway for which notice under Section 26(2) of the Control of National Highways (Land and Traffic) Act, 2002 was issued upon the petitioner.

There is nothing on record to indicate that such notice was issued upon the petitioner or served to him.

Since the representation submitted by the petitioner is pending before the authority, the concerned authority being the 3rd respondent herein is directed to consider and dispose of the representation within one month from the date of communication of this order upon affording reasonable opportunity of hearing to all the interested persons including the petitioner, in accordance with law.

The decision taken by the authority shall be communicated to the petitioner within a week thereof.

Pending disposal of the representation, no coercive steps shall be taken by the concerned authority for demolition of any portion of the building of the petitioner.

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.)