

D/L
Item No. 7
20.04.2023
KOLE

**MAT 419 of 2023
With
IA No. CAN 1 of 2023**

**Rahamatpur Anchal Fishermans
Co-operative Society & Anr.
-Vs.-
Santosh Mondal & Ors.**

*Mr. Atis Kumar Biswas,
Mr. Amit Singh,
Mr. Jyoti Agarwal,*

...for the appellants.

*Mr. Dhruba Mukherjee, Sr. Adv.
Mr. Asraf Mondal,
Mr. A. Kr. Barman,*

...for the petitioners/respondents.

In Re: CAN 1 of 2023:-

This is an application for leave to prefer appeal against a judgment and order dated February 8, 2023, whereby the writ petition of the private respondents herein being WPA 9063 of 2022 (Sri Santosh Mondal & Ors.-vs.- The State of West Bengal & Ors.), was disposed of. The present applicants were not parties to the writ petition. They say that they are aggrieved by the said order which directs handing over possession of a water body to the writ petitioners who claim to be the owners thereof. The applicants say that they hold the water body on lease under the State Government and use it for the pisciculture. Hence, they are aggrieved by the order.

All such submissions of the applicants are disputed by learned Advocate for the writ petitioners. The writ petitioners say that the present applicants have absolutely no right, title or interest in respect of the water body in

question. No document has been produced by them in support of their claim.

Learned Advocate for the applicants says that the relevant documents were washed away in the floods of 2000. This is also disputed by learned Advocate for the writ petitioners.

We, however, see from records that in a writ petition filed in the year 2019 being WP No. 7666 (W) of 2019, concerning the same water body, the presence of the applicant-cooperative society was noted by a learned Single Judge in an order dated April 18, 2019.

Having considered the facts and circumstances of the case, we are of the view that the applicants may have something to say in respect of the water body in question. Accordingly, we grant the applicants for leave to appeal.

CAN 1 of 2023 is, thus, disposed of.

In Re: MAT 419 of 2023:-

The appellants were not impleaded as respondents by the writ petitioners. For the reasons indicated above, we are of the view that the appellants herein should be heard by the learned Single Judge before the writ petition is finally disposed of. We grant liberty to the appellants to make an application before the learned Single Judge for being added as parties. If such an application is made, upon notice to the writ petitioners, the learned Single Judge shall decide the same in accordance with law.

The order under appeal is set aside and the matter is remanded to the learned Single Judge for fresh consideration and disposal.

We have not gone into the merits of the case at all. The learned Single Judge having determination in the matter is requested to decide the writ petition in the manner the learned Judge may deem fit and proper after hearing the applicants in the event they make an application for addition of party.

The appeal is, accordingly, disposed of.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Apurba Sinha Ray, J.) (Arijit Banerjee, J.)