

31.03.2023

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WPA (P) 147 of 2023

Dhananjoy Gorai.

Vs.

Union of India & Ors.

Mr. Samiran Mandal,
Mr. Abhinaba Dan for the petitioner.

Mr. Amitesh Banerjee, Sr. Adv.,
Ms. Ipsita Banerjee ... for the State.

1. This writ petition has been styled as a public interest litigation stating that the authorities concerned have changed the nature of construction of the proposed underpass from U shape railway underpass to a straightway underpass over the Moyrabandh Railway gate no.3 under Adra Division, South Eastern Railway.

2. The writ petitioner claims himself to be a public interest litigant and is a resident of the area. The primary reason for which this writ petition has been filed is by alleging that if the U shape underpass, which was originally conceived and approved by the District Magistrate is implemented, the shop owners and the property owners on either side of the underpass will not be affected. However, if the straightway underpass is constructed, lot of them will be put to prejudice.

3. The writ petitioner appears to be canvassing the case of certain third parties, which cannot be done in a public interest litigation. If a land-owner or a shop owner is aggrieved, it is well open to him/her to avail the legal remedies available under the various statutes.

4. Therefore, we are of the view that no direction, as sought for in the writ petition, can be granted at this juncture. However, we give liberty to the writ petitioner to submit a detailed representation along with a copy of this order to the appropriate authority and if the said representation is submitted, the said authority shall consider the same in accordance with law as expeditiously as possible.

5. We make it clear that we are not interfering with any of the proceedings issued by the railway administration as to be seen from the communication dated 27th March, 2023 where the commissioning of the underpass has already been implemented.

6. The writ petition is, thus, disposed of.

7. There shall be no order as to costs.

8. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(T. S. SIVAGNANAM)
ACTING CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)