

D/L
Item No. 2
07.02.2023
KOLE

**MAT 869 of 2022
With
IA No. CAN 2 of 2022**

**Adhir Pal
-Vs.-
The State of West Bengal & Ors.**

*Mr. Kartick Ch. Bhattacharyya,
Mr. Subhas Chandra Datta,
Mr. S. Dutta,*

...for the appellant.

*Mr. Susanta Pal,
Mr. Prabir Kr. Ray,*

...for the State.

Mr. Samik Sarkar,

...for the private respondents.

By consent of the parties the appeal and the application are taken up for hearing together.

The appellant's writ petition was disposed of by the learned Single Judge by the order dated May 2, 2022 which is impugned before us.

The grievance of the appellant before the learned Single Judge was that the private respondents have encroached upon government land and had made unauthorized construction.

The learned Judge took on record a brief synopsis prepared by the concerned Block Development Officer. On the basis of such synopsis the learned Judge observed that the private respondents have been restrained from making construction on government land even if the same was under Indira Awas Yojana Scheme. The learned Judge further recorded that the report shows that there is a vacant land in

front of the house of the writ petitioner which can be used for ingress and egress. The learned Judge observed that in view of the aforesaid, no further order need be passed. The writ petition was disposed of.

Being aggrieved, the writ petitioner is before us by way of this appeal.

The private respondents before us say that the appellant/writ petitioner has raised unauthorized construction on government land. The learned Advocate for the private respondents further says that his clients have received grant under the Indira Awas Yojana Scheme and are waiting to make construction once the Government executes a patta in their favour.

We are of the view that in view of the allegations and counter-allegations between the parties, which are factual in nature, the disputes should be referred to a Competent Officer in the administration.

The appellant is granted liberty to make a comprehensive representation before the concerned Sub-divisional Officer. The private respondents herein may also make a representation. Such representations, if any, are to be made within a fortnight from date. If representations are made within the time period indicated, the same shall be disposed of by the concerned Sub-divisional Officer, in accordance with law and the applicable rules and regulations, by a reasoned order, within a period of eight weeks from the date of receipt of the representations, after affording an opportunity of hearing to all concerned parties including the appellant and the private respondents or their

authorized representatives. If the Sub-divisional Officer comes to the conclusion that further action needs to be taken, he shall do the needful.

The order under appeal is set aside.

Since we have not called for affidavits, the allegations made in the stay application, are deemed not to be admitted by the respondents.

The appeal and the connected application are, 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.)