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05.07.2023
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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 15407 of 2023

Layli @Laili Begum & Anr.

Vs.

The State of West Bengal & Ors.

Mr. Anindya Bose,
Mr. Santanu Majhi,
Mr. Dipendu Mondal,
Mr. Mridul Biswas
...for the petitioners

Mr. Samit Kumar Mondal,
Mr. Samrat Paul
...for the State

Learned counsel appearing for the petitioners submits that an appeal has been duly preferred by the petitioners under Section 10(4) of the West Bengal Highways Act, 1964 against an order of eviction of the petitioners on the allegation of unauthorized occupation of public property.

It is submitted that the Assistant Engineer (P.W.D.), Uluberia Sub-Division has communicated to the Officer-in-Charge of the concerned police station seeking implementation of the order of eviction. However, since the petitioners have preferred an appeal before the District Magistrate, which is still pending and no date has been fixed for hearing of the same, the petitioners' challenge would be rendered infructuous in

the event the respondent-authorities are not restrained in the meantime from dispossessing the petitioners.

Upon considering the submissions of the petitioners and going through the materials on record, it is seen that the petitioners have made out a *prima facie* case in the appeal.

Accordingly, W.P.A. No. 15407 of 2023 is disposed of by directing the respondent no. 5, that is, the District Magistrate at Howrah, to decide the appeal preferred by the petitioners under Section 10(4) of the 1964 Act, as expeditiously as possible and in accordance with law, positively within four weeks from date.

However, the respondent-authorities shall be restrained from dispossessing the petitioners in terms of the order impugned before the District Magistrate till disposal of the said appeal by the District Magistrate.

The report filed by the police-authorities today be kept on record.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance of all necessary formalities.

(Sabyasachi Bhattacharyya, J.)