

11.10.2023

Ct. 654

D/L 4

ab

WPA 26392 of 2022

Rup Chand Sheikh

-Vs-

Union of India & Ors.

Mr. Udayan Datta

... for the petitioner

Mr. Chandi Charan De,

Mr. Anirban Sarkar

Mr. Anubrata Santra

... for the State

Ms. Manika Roy,

... for the respondent no. 2-National
Highways Authority

This writ petition is filed by the petitioner under Article 226 of the Constitution of India challenging the notice dated 1st June, 2022 issued by the respondent no. 2-The Highway Administrator-cum-Project Director, National Highways Authority of India.

The dispute relates to unauthorized encroachment upon the land, which has been acquired by the National Highways Authority. The National Highways Authority of India PIU-Malda issued notice to the petitioner on 1st June, 2022 under Section 26 (2) of the Control of National Highways (Land and Traffic) Act, 2002 for removal of unauthorized occupation. Being aggrieved by such notice, the petitioner has filed the present writ petition.

Mr. Udayan Datta, learned advocate for the petitioner submits that the petitioner has not encroached the portion of the land acquired by the authority. He submits that by such notice only three days time was given to the petitioner for making his representation. The petitioner could not submit his representation within such short period. He seeks that the petitioner be given an opportunity to make a representation before the concerned authority. He submits for passing necessary orders.

Ms. Manika Roy, learned advocate for the respondent no. 2 submits that if the petitioner intends to make his representation, liberty be given for making such representation.

Mr. Chandi Charan De, learned Additional Government Pleader for the State also submits in the similar fashion.

In view of the submissions advanced on behalf of the respective parties, the petitioner is granted liberty to make his representation in respect of the notice dated 1st June, 2022 before the respondent no. 2 within 15 days from date. If such representation is made, the respondent no. 2 shall consider such representation and dispose of the same by passing a reasoned order within a period of one month from the date of such representation after giving an opportunity of hearing to

the petitioner and shall communicate the same to the petitioner within a week thereafter.

With the aforesaid observations, the writ petition being **WPA 26392 of 2022** stands disposed of.

Urgent Photostat certified copy of this order, if applied for, be given to the parties upon compliance of all necessary legal formalities.

(**Bivas Pattanayak, J.**)