

24.11.2023
Item No. 05
Court No.11
Avijit Mitra

MAT 2241 of 2023
with
IA No. CAN 1 of 2023

Abdul Halim
-Versus-
Nausad Sk. alias Nausad Ali & ors.

Mr. Kamalesh Bhattacharya,
Mr. Aninda Bhattacharya
....for the appellant
Mr. Tapan Mukherjee, Ld. A.G.P.,
Mr. Pritam Chowdhury,
Mr. Sabyasachi Bhattacharjee
...for the State
Mr. Partha Sarathi Deb Barman,
Mr. Syed Nazmul Hossain,
Mr. Syed Ali Afzal,
Mr. Syed Uj-Jaman,
Mr. Syed Nazirul Hossain,
Mr. Shaunak Ghosh,
Mr. Anindya Sundar Das,
Mr. Shaharayar Alam,
Mr. Ratul Deb Banerjee
...for the respondent nos.1 to 6

The present appeal has been preferred challenging an order dated 16th October, 2023 passed in a writ petition being WPA 18190 of 2023.

The writ petition being WPA 18190 of 2023 was preferred by the respondent nos. 1 to 6 herein ventilating a grievance that the appellant herein is interfering with the pisciculture of the private respondents/writ petitioners.

Mr. Bhattacharya, learned advocate appearing for the appellant, who is the private respondent in the writ petition being WPA 18190 of 2023, submits that

admittedly, 119.47 acres of water body had been settled by the Government in his favour by executing a deed of lease and possession was handed over in the month of July, 2023. Failing to appreciate such facts, the learned Single Judge passed an *interim* order directing the appellant not to interfere with the pisciculture of the writ petitioners/respondents and other raiyats in respect of 304 acres of beel.

Mr. Deb Barman, learned advocate appearing for the writ petitioners/private respondents herein denies and dispute the contention of the appellant and submits that the learned Single Judge being satisfied that a *prima facie* case has been made out by the writ petitioners was pleased to pass an *interim* order and there is no infirmity in the same

He further submits that the present appeal having been preferred against an *interim* order is not maintainable.

Mr. Mukherjee, learned Additional Government Pleader appearing for the State respondents submits that the report as called for by the learned Single Judge will be filed on behalf of the State respondents on the date specified in the order impugned.

Heard the learned advocates appearing for the respective parties and considered the materials on record.

Records reveal that the learned Single Judge has directed the matter to appear for hearing on 12th

December, 2023 and the parties have been directed to exchange their affidavits in the meantime. A limited *interim* order has been passed till 15th December, 2023.

In the said conspectus, we are not inclined to interfere with the order dated 16th October, 2023 passed by the learned Single Judge and the appellant's prayer is, accordingly, refused.

The appeal and the connected application are disposed of.

There shall, however, be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties, upon compliance of all requisite formalities.

(Uday Kumar, J.)

(Tapabrata Chakraborty, J.)