

AD-12
Ct No.01
Jalpaiguri
20.09.2023
B.Pal

**Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side**

MAT 128 of 2023
IA NO:CAN 1 of 2023
CAN 2 of 2023

BARINDRA NATH DUTTA
VS
THE STATE OF WEST BENGAL AND ORS

Mr. Bikramaditya Ghosh,
Ms. Supriya Singh

...for the Appellant/Petitioner

Mr. Hirak Barman,
Mr. Momenur Rahman

...for the State

Mr. Pritom Das

...for the Municipality

1. In view of sufficient reasons having been shown for the delay, CAN 2 of 2023 is allowed, thereby condoning the delay in preferring the appeal.
2. Learned counsel for the appellant submits that although the learned Trial Judge refused to interfere in view of availability of an equal efficacious alternative remedy, such remedy, even if available, would not suffice in the present case.

3. It is submitted that in the garb of correcting the records of rights, the respondent authorities seek to encroach upon the property of the appellant. It is further submitted that the said action is evident from the fact that admittedly a road expansion drive was going on contemporaneously with the purported correction.
4. Learned counsel for the respondents opposes the arguments of the appellant. It is submitted that the learned Trial Judge rightly relegated the appellant to the equally available alternative forum, since the proceedings were initiated under Section 50(f) of the West Bengal Land Reforms Act, 1955 and the statute provides specifically for a forum of challenge.
5. We find from the impugned order that the learned Trial Judge exercised his discretion properly in observing that equally efficacious alternative remedy was available against the order passed under Section 50(f) of the West Bengal Land Reforms Act, 1955. Hence, we do not find any reason to interfere with the said order *ex facie*.
6. However, the appellant, who is a septuagenarian, apprehends that by virtue of such purported correction he may be ousted from the property which is in his occupation and ownership.

7. Although such contention is squarely opposed by the respondents, we are of the opinion that such apprehension of the appellant is misplaced since in the event the appellant is in occupation of the property in dispute, the respondents would have to take recourse to due process of law to oust the appellant.
8. Thus, mere apprehension of the appellant on such count cannot be a reason for interfering with the impugned order passed by the learned Single Judge.
9. Accordingly, MAT 128 of 2023 along with CAN 1 of 2023 are disposed of without any order as to costs in light of the above observations.
10. It is further observed that in view of the pendency of the writ petition and thereafter the appeal for so long, the benefit of the principle of Section 14 of the Limitation Act should also be given to the appellant if he promptly prefers an appeal against the order impugned before the writ court before the appropriate forum.

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)