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19.02.2024
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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 2824 of 2024

Haradhan Maity

Vs.

The State of West Bengal & Ors.

Mr. Debashis Saha,
Ms. Dipika Banu

...for the petitioner

Mr. Sk. Md. Galib,
Ms. Tanwishree Mukherjee

...for the State

1. Affidavit-of-service filed in Court today be kept on record.
2. The petitioner alleges that the petitioner's hardware shop has been blocked by a metal construction made by the Highway Authorities. Moreover, the Highway-authorities, while making a four-lane highway, have omitted to leave the mandatory space for utility services, as required under their own Manual, thereby hampering the business of the petitioner.
3. Learned counsel for the State submits that the area concerned has been ascertained not to be fit to make a four-lane highway at present, for which a Land Purchase Policy is in the process of being

adopted by the State for the purpose of construction of such highway.

4. While the process is underway, a metal barrier has been installed in a location near the shop of the petitioner. Such location, it is submitted, is on government land and was ascertained after a scientific enquiry preceding the same. The area was marked as a 'black spot' in technical parlance, at which the barrier was mandatorily to be located.

5. In any event, it is contended that the petitioner's ingress and egress to his hardware shop has not been totally blocked and there are alternative routes in and out of the said shop.

6. Learned counsel for the petitioner disputes the last mentioned proposition and submits that due to construction of the metal bar, the hardware business of the petitioner is being hampered.

7. Insofar as the facts of the present case are concerned, since the State has taken a stand that no four-lane highway is being constructed at present in the particular area before the Land Purchase Policy is adopted and implemented, the apprehension of the petitioner regarding omission to leave mandatory space beside the highway is premature.

8. Insofar as the metal bar is concerned, in view of the well-settled principle that public policy and public interest has to override the limited private interest of a person, the writ court is not in a position to direct removal of the same, particularly since the location of the metal barrier has been preceded by an enquiry and proper procedure by the State.

9. However, the petitioner definitely has a civil dispute inasmuch the petitioner's hardware store and the ingress and egress thereto is alleged to have been affected. For resolving such dispute, since it is disputed by the State, what is required is adduction of full-fledged evidence and ascertaining the disputed questions of facts regarding the ingress and egress to the shop of the petitioner being obstructed, which is within the domain of a competent civil court.

10. Hence, there is no scope of interference in the present writ petition. However, if the petitioner is aggrieved on the allegation that the ingress and egress to and from the hardware store of the petitioner is being obstructed by the metal barrier, which is alleged to be temporary in nature by the State, the petitioner would be at liberty to approach the competent civil court for canvassing the issues as to whether the said location of the metal barrier

blocks the only ingress and egress to the petitioner's shop and whether the same has been unlawfully obstructed by the respondent-authorities.

11. Nothing in this order shall influence the civil court, if so approached, while deciding such issues.

12. Accordingly, W.P.A. No. 2824 of 2024 is disposed of in the light of the above observations.

13. There will be no order as to costs.

14. 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.)