

**IN THE HIGH COURT OF JUDICATURE AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

HEARD ON: 16.05.2024

DELIVERED ON: 16.05.2024

CORAM:

**THE HON'BLE MR. CHIEF JUSTICE T.S. SIVAGNANAM
AND
THE HON'BLE MR. JUSTICE HIRANMAY BHATTACHARYYA
M.A.T. 740 of 2024**

With

I.A. No. CAN 1 of 2024

With

I.A. No. CAN 2 of 2024

Haradhan Maity

Vs.

The State of West Bengal & Ors.

Appearance:-

Mr. Sk. Md. Galib

Ms. Jyotsna Roy Mukherjee

..... for the State

JUDGMENT

(Judgment of the Court was delivered by T.S. SIVAGNANAM, C.J.)

In Re: I.A. No. CAN 1 of 2024

1. We have heard Mr. Sk. Md. Galib, learned advocate appearing for the State.
- 2.** There is delay of 04 days in filing the appeal. We have perused the affidavit filed in support of the petition and we find that sufficient cause has been shown for not being able to prefer the appeal within the period of limitation. I.A. No. CAN 1 of 2024 is allowed and the delay in filing the appeal is condoned.

In Re: M.A.T. 740 of 2024

3. This intra-Court appeal by the writ petitioner is directed against the order dated 19th February, 2024 in W.P.A. 2824 of 2024 by which the writ petition filed by the appellant seeking for a direction upon the respondents not to make any barrier of any kind in front of his shop and remove the construction has been dismissed.
4. The respondent authorities have produced a report, which has been submitted to the learned Senior Government advocate, which states that the area in question is a Black Spot and it is an accident spot and the Metal Beam Crash Barrier has been installed as a short-term safety measure and it has also been stated that keeping in mind of smooth running of business/establishment of the said plot, suitable three number of opening have been provided. Further, there is also mention about the land purchase proposal. The relevant clauses in the report are quoted hereinbelow:

*“5. The plot of the land of the petitioner L.R. Dag No. 2323, JL No. 22 within P.S. Pursura in the district Hooghly has been located at the right side of **“Pursurah More”** which is the immediate end point of the underpass and adjacent to the merging point of the major bridge over river damoder which is a 4-legged major junction point and also a perennial accident prone zone. It is relevant to mention that, the said location i.e. **“Pursurah More”** is also marked as a **“Black Spot”** and it is also an accident spot.*

13. At present, installing Metal Beam Crash Barrier (MBCB) as short term safety measures at said location has been installed within P.W.D. Right of Way duly demarcated by the representatives of BL&LRO Pursura in presence of the land owner and others in the field. Photography of the demarcation at field with demarcation drawing has been enclosed herewith. It is relevant to mention that, the landowner himself accepted the measurement/demarcation done by the representatives of BL&LRO Pursura at the field and affixed his signature of acknowledgement on measurement sheet. So, posted pillar on the land of the petitioner/dawn land boundary/ROW on the

*petitioners land, does not arise. Moreover, no encroachment has been taken place in the petitioner's property whatsoever. **Annexure 11.***

16. At present, the Metal Beam Crash Barrier (MBCB) was installed as a short-term safety measure considering the safety of adjacent residents as well as road users and public utility services and this petition is also creating impediment for public safety and public services.

17. Regarding land purchase, the following points may kindly be noted:-

*a) The land purchase proposal for an area of 2.2779 acre **including land purchase of the plot in question i.e. L.R. Dag No. 2323, JL No. 22 within P.S. Pursura, quantum of 0.06 Acre** has forwarded to the concerned department as per extant policy of the land purchase long back.*

*b) The proposal has been approved by the finance department and fund has been placed to the concerned District Administration. **Annexure-13.***

c) Process of land purchase is presently ongoing as per extant norms.

18. Development of the said location as per specification/ as per codal provisions will be taken up after completion of the land purchase by the concerned Administrative Department as per extant norms of Govt."

5. In the light of the above, the Court finds no ground to interfere with the order impugned.
6. Accordingly the appeal and the connected application (I.A. No. CAN 2 of 2024) are dismissed.
7. No costs.
8. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(T.S. SIVAGNANAM)
CHIEF JUSTICE

I agree.

(HIRANMAY BHATTACHARYYA, J.)