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23.12.2024
Jayanta/Ct- 11

MAT 2254 of 2024
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CAN 1 of 2024

Mahadev Mondal
– *Versus* –
Kinkar Halder & Others

Mr. Avirup Chatterjee
Mr. Rishov Das

....For the Appellant.

Mr. Pankaj Halder

....For the Respondent No. 1.

Mr. Soumitra bandyopadhyay

Mr. Suchana Banerjee

....For the State/Respondent.

The present appeal has been preferred challenging an order dated 5th December, 2024 passed by the learned Single Judge in the writ petition being WPA 28584 of 2023.

Records reveal that the writ petition being WPA 28584 of 2023 was preferred by the respondent no. 1 herein *inter alia* praying for issuance of necessary direction upon the competent authority to conclude the removal proceedings against the private respondent being the appellant herein, in terms of the notice dated 10th August, 2023, issued by the Assistant Engineer, Joynagar Sub-division.

By the order impugned in the present appeal, the learned Single Judge directed the jurisdictional Assistant Engineer, PWD, to refer the dispute to the respondent no. 4 in the writ petition, being the Sub-

divisional Officer, Diamond Harbour within a period of two weeks and also directed that the respondent no. 4 therein to decide the issue by passing a reasoned order, in accordance with law upon prior notice and an opportunity of hearing to the writ petitioner and all the private respondents. The Court further directed as follows:

*‘In the event the reasoned order confirms the encroachment alleged by the petitioner on PWD land, the appropriate authority shall take all necessary and consequential steps to give an immediate effect to the said reasoned order but positively within a period of **eight weeks** from the date of the said reasoned order to be passed.’*

According to Mr. Chatterjee, the learned advocate appearing for the appellant, the said order curtails the appellant’s right to prefer a statutory appeal, as provided under Section 10 (4) of the West Bengal Highways Act, 1964 (hereinafter referred to as the 1964 Act).

Mr. Halder, learned advocate appearing for the private respondent/writ petitioner, however, submits that the directions issued would reveal that the respondent no. 5 herein was directed to pass an reasoned order and to take necessary steps for implementation of the same within a period of eight weeks. Such direction, thus, does not interfere with

the appellant's right to prefer appeal within the time prescribed under the provisions of Section 10 (4) of the 1964 Act inasmuch as, the time to prefer a statutory appeal has been specified to be 15 days from the date of the order.

Upon hearing the learned advocates appearing for the respective parties and considering the materials on record, the order impugned in the present appeal is clarified only to the effect that the appellant would be at liberty to prefer a statutory appeal within 15 days from the date of the order passed by the respondent no. 5, in terms of Section 10 (4) of the 1964 Act, if so advised and in accordance with law.

The appeal and the connected applications are, accordingly, disposed of.

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

Urgent certified photocopy of this order, if applied for, be supplied as expeditiously as possible.

(Subhendu Samanta, J.) (Tapabrata Chakraborty, J.)