

15-02-2022
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**High Court at Calcutta
Constitutional Writ Jurisdiction
(Circuit Bench at Jalpaiguri)**

**WPA 1763 of 2021
(Through Video Conference)**

Sabita Roy
-Versus-

The State of West Bengal & Ors.

**Mr. Arindam Das,
Mr. Atanu Banerjee,
Mr. Biswajit Sarkar**

....for the petitioner

Ms. Monika Roy

...for the NHAI

**Mr. Abhratosh Majumdar, Id. Sr. Adv.,
Mr. Puspall Chakraborty**

....for the respondent no.7

The writ petitioner is aggrieved that notwithstanding complaint dated September 3, 2021 addressed to the Alipurduar Police Station as regards non-payment of compensation under Land Acquisition Act, 1894, police have not taken any steps.

Counsel for the National Highway Authority would submit that her client has nothing to do in the matter since the compensation has already been deposited with the office of the District Magistrate, Jalpaiguri and disbursement thereof is by the State Authority.

Mr. Abhratosh Majumdar, learned Senior counsel appearing for the private respondent no.7, who is the former Additional Land Acquisition Collector, would submit that the money was payable to the writ petitioner, was mistakenly transferred to the relative of a third person bearing the same name as the writ petitioner. After detecting the mistake, the money was subsequently re-transferred back to the account of the writ petitioner. Relevant extract of the bank accounts of the other documents were submitted by Mr. Majumdar and copies thereof have been given to the counsel for the petitioner.

A complaint has also been filed by the office of the D.M., Alipurduar on 4th September, 2021 with the Kotwali and Alipurduar Police Station.

Having heard the rival contentions of the parties, this Court is of the considered view that since after receipt of a complaint as regards the commission of a cognizable offence, the Alipurduar Police Station was bound to register FIR and commence investigation, as per the dicta of the Hon'ble Supreme Court in the case of ***Lalita Kumari vs Govt. Of U.P. & Ors*** reported in ***(2014) 2 SCC 1***. As to whether there is criminality or whether the ingredients of the offences are available this would depend on the statements made in the complaint and the

investigating officer shall consider the same while submitting the final report to the ACJM concerned.

This Court, therefore, takes exception to the conduct of the Alipurduar Police Station in not registering FIR.

It is ordered that FIR shall forthwith be registered and investigation should be completed as expeditiously as possible preferably within a period of two months from the date of communication of a copy of this order and after completion of investigation, a suitable report shall be submitted before the Jurisdictional Magistrate.

It is submitted by Mr. Majumdar that separate proceedings are pending before this Court in respect of the land acquisition matter, particularly, with regard to hand over of possession of the acquired land. It is absolutely made clear that the instant order of this Court shall not, in any way, affect the other pending proceedings and the concerned Courts may pass appropriate orders in accordance with law as they may deem fit.

With the aforesaid observations, the writ petition is disposed of.

There shall be no order as to costs.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)