

**IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
Original Side**

**APO 123 of 2020
with
IA No. GA 4 of 2022**

**THE STATE OF WEST BENGAL AND ORS.
Vs.
BOARD OF TRUSTEES FOR THE PORT OF KOLKATA AND ORS.**

Present:

The Hon'ble Justice Debangsu Basak

And

The Hon'ble Justice Md. Shabbar Rashidi

For the Appellant/State	: Mr. Samrat Sen, Sr. Adv. AAAG Mr. S. Bandyopadhyay, Adv. Mr. Indranil Roy, Adv. Mr. Arindam Mandal, Adv. Mr. Paritosh Sinha, Adv.
For Port Trust	: Mr. Abhrajit Mitra, Sr. Adv. Mr. Pramit Bag, Adv. Mr. Snehashis Sen, Adv.
For Municipal Corporation	: Mr. Ashok Banerjee, Sr. Adv. Mr. Alok Kumar Ghosh, Adv. Mr. Dilip Kumar Chatterjee, Adv.
Hearing concluded on	: December 07, 2023
Judgment on	: December 19, 2023

DEBANGSU BASAK, J. :-

1. State of West Bengal as the appellant has assailed a judgement and order dated August 10, 2020 passed by the learned Single Judge in WP 74 of 2019. By the impugned judgement and order the learned Single Judge has allowed the writ petition and set aside the

original notice dated October 25, 2018, and all consequential steps taken thereunder as being foundationally flawed.

- 2.** Learned Assistant Additional Advocate General appearing for the State has referred to the provisions of the West Bengal Escheat Forfeitures Act, 2012 and contended that, the provisions of the Act of 2012 provide for a two tier adjudicating process. At the first tier is the competent authority and at the 2nd tier is the Appellate Authority who both have powers to consider the issue as to whether, the property in question comes within the purview of the Act of 2012 or not.
- 3.** Learned Assistant Additional Advocate General has submitted that, the competent authority under the Act of 2012 issued a notice dated October 5, 2018 in respect of premises No. 68 and 69, Strand Road, Kolkata. He has referred to such notice. He has pointed out that in such notice, the competent authority had acknowledged that, Kolkata Port Trust Authorities is the owner of a portion thereof and that there was no recorded owner for the balance of those 2 premises. Competent authority had initiated an enquiry by such notice which it was entitled to do under the provisions of the Act of 2012. Kolkata Port Trust Authorities had submitted a reply dated October 25, 2018 to the competent authority by which it

claimed to be the owner of a part of the 2 premises concerned. It had divided the 2 properties into 3 schedules namely schedule A, B1 and B2. In its reply, Kolkata Port Trust Authorities had stated that, they were not the owner of schedule C. Competent authority had by a letter dated November 26, 2018 asked the Kolkata Port Trust Authorities for title deeds in respect of the portion that it claimed ownership of in respect of the 2 premises. By a letter dated December 19, 2018, Kolkata Port Trust Authorities had submitted title deed dated December 21, 1910. Considering such contentions, the competent authority had passed an order dated January 29, 2019 by which, it divided the 2 premises into 3 lots being Lot A, B1 and B2. It had accepted Kolkata Port Trust Authorities to be the owner in respect of lot A which is the area which, Kolkata Port Trust Authorities had claimed ownership of in respect of the 2 properties. Therefore, according to him, Kolkata Port Trust Authorities had no ground to approach the Writ Court as, competent authority had acted within the jurisdiction prescribed under the Act of 2012 and that, the contentions of Kolkata Port Trust Authorities before the competent authority had been upheld.

4. Learned Assistant Additional Advocate General has contended that, the writ petition raised disputed questions of facts which

ideally should be decided by the appellate authority prescribed under the Act of 2012 and not in a summary proceeding as that of a writ petition. He has pointed out that, there were disputes as regards the total area comprised in the 2 premises with Kolkata Port Trust Authorities claiming ownership only in respect of a portion thereof. He has contended that, a Writ Court cannot decide title and should not give a declaration of title. In support of his contentions, he has relied upon **1962 Supp (3) SCR 831 (Bokaro and Ramgur Ltd. Vs. State of Bihar and Another)**, **1993 Supp (1) Supreme Court Cases 306 (State of Rajasthan vs. Bhawani Singh and Others)**, and **2019 (4) Supreme Court Cases 500 (Sarvepalli Ramaiah (dead) as per legal representatives and Others vs. District Collector Chittoor District and Others)**.

5. Learned Assistant Additional Advocate General has contended that, since, the Act of 2012 provides for an appeal from the order of the competent authority, it is an efficacious statutory remedy available to Kolkata Port trust authorities. In view of efficacious statutory alternative remedy being available, he has contended that, the writ petition should not have been entertained. In support of such contentions, he has relied upon **1985 (1) Supreme Court Cases 260 (Assistant Collector of Central Excise, Chandan**

Nagar, West Bengal vs. Dunlop India Ltd. and Others and
***2022 SCC OnLine SC 1262 (State of Maharashtra and Others
 vs. Greatship (India) Limited).***

6. Learned Assistant Additional Advocate General has submitted that the impugned judgement and order does not contain any reason. He has prayed for setting aside of the impugned judgement and order and dismissal of the writ petition.
7. Learned Senior Advocate appearing for Kolkata Municipal Corporation Authorities has submitted that, his client was added to the writ petition. He has referred to the report submitted before the Appeal Court, pursuant to the order passed by the Appeal Court. He has contended that, the letter of Kolkata Port Trust Authorities dated February 12, 2019 referred to Strand Bank Road which is different from Strand Road. According to him, Kolkata Port Trust Authorities did not raise any claim as to the balance portion of the 2 premises concerned by producing valid title deeds in respect thereof. In effect, he has supported the claim of the appellant.
8. Learned senior advocate appearing for Kolkata Port Trust Authorities has referred to the provisions of the Act of 2012. He has contended that, what constitute an escheat is defined in Section 2 (g) of the Act of 2012. He has contended that, the jurisdictional fact

necessary for the purpose of invocation of the Act of 2012 does not exist and that the competent authority has not decided there on. An erroneous decision on a jurisdictional fact is open to challenge under Article 226 notwithstanding the existence of alternative remedy and in support of such contentions, he has relied upon ***1973 (1) Supreme Court Cases 633 (Raza Textiles Ltd. vs. Income Tax Officer, Rampur)***, and ***2005 SCC OnLine Raj 822 (LRs. of Hurji & Ors. vs. District Judge, Udaipur & Ors.)***.

9. Learned Senior Advocate appearing for the Kolkata Port Trust Authorities has contended that, the competent authority went by the holding number of the 2 premises. Therefore, what would constitute the area of the 2 premises described by a particular holding number will depend upon the details in respect thereof that has been maintained by the Kolkata Municipal Corporation.
10. Learned Senior Advocate appearing for the Kolkata Port Trust Authorities has contended that, title documents of 1874 which his client sought to rely upon before the learned Single Judge were taken into consideration in a suit between his client and Kolkata Municipal Corporation in which the State was a party. Therefore, his client's claim over the balance portion of the subject premises has been established.

- 11.** Learned Senior Advocate appearing for the Kolkata Port Trust Authorities has submitted that, the question of existence of alternative remedy does not arise. Moreover, the appellant did not take the point of maintainability before the learned Single Judge in the affidavit-in-opposition or at the time of the writ petition being admitted. Not having taken such point of maintainability the appellants are precluded from raising such issue. In support of such contentions he has relied upon **1970 Volume 2 Supreme Court Cases 355 (L. Hirday Narain vs. Income Tax Officer, Bareilly)**, **2006 Volume 2 Supreme Court Cases 269 (L. K. Verma vs. Hmt Ltd. and Another)**, and **2005 Volume 6 Supreme Court Cases 499 (State of H.P. and Others vs. Gujarat Ambuja Cement Ltd. and Another)**.
- 12.** Learned Senior Advocate appearing for Kolkata Port Trust Authorities has referred to Section 4 of the Act of 2012. He has contended that, erroneous assumption of jurisdiction or an incorrect appreciation of fact relating to jurisdiction, can be assailed under Article 226 of the Constitution of India. He has contended that, the exercise required under Section 4(1) of the Act of 2012 has not been undertaken by the competent authority. In support of his contentions, he has relied upon **2009 Volume 14**

Supreme Court Cases 338 (Godrej Saralee Limited vs. Assistant Commissioner (AA) and Another).

- 13.** Learned Senior Advocate appearing for the Kolkata Port Trust Authorities has contended that, there is a disconnect between the notice issued by the competent authority and the order passed by such authority under the provisions of the Act of 2012. Since, his clients are lawful owners of premises No. 68 and 69 Strand Road, Kolkata, question of directing vesting of any portion of such premises under the Act of 2012 has been incorrect. He has contended that, the appeals should be dismissed.
- 14.** The competent authority under the Act of 2012 had issued a notice dated October 5, 2018, in respect of Premises No. 68 and 69, Strand Road, Kolkata. It had stated that Kolkata Port Trust were owners of part of such premises and that, the provisions of the Act of 2012 was applicable in respect of the remaining portion of such premises and therefore expressed the desire to cause enquiry as to whether the fact as stated in Section 2 (g) of the Act of 2012 would attract the operation of Section 3 thereof in respect of the remaining portion of such premises. By such notice, the competent authority acting under the Act of 2012 had invited claims with regard to the right, title and interest in respect of the remaining

portion of such premises. Such notice had been published in the newspaper in October 9, 2018.

- 15.** Kolkata Port Trust Authorities had by a letter dated October 25, 2018 responded to the notice dated October 5, 2018 of the competent authority. By such letter, Kolkata Port Trust Authorities had described the entirety of premises No. 68 and 69, Strand Road, Kolkata in schedule A. It had claimed ownership in respect of a definitive part of premises No. 68 and 69, Strand Road, Kolkata and described such portion in schedule B. It had given a measurement in respect of schedule B to be 12 Bighas 7 Cottahs and 14 Chattaks. It had described the remaining portion of Premises No. 68 and 69, Strand Road, Kolkata in schedule C.
- 16.** The competent authority by a letter dated November 26, 2018 had called upon the Kolkata Port Trust Authorities to furnish copies of title deed and other documents in support of their claim over premises No. 68 and 69, Strand Road, Kolkata. In response thereto, Kolkata Port Trust Authorities had submitted a title Deed dated December 21, 1910 for their claim in respect of schedule B as made in their letter dated October 25, 2018.
- 17.** Competent authority had passed an order dated January 29, 2019 holding that, 12.34 Bighas in Lot A belonged to the Kolkata

Port Trust Authorities and that the remaining portion of 29.26 Bighas of the 2 premises was not claimed by any person and therefore such part of the property in premises No. 68 and 69, Strand Road, Kolkata stood vested with the state of West Bengal by escheats or lapse.

18. Kolkata Port Trust Authorities did not prefer any appeal against such order of the competent authority but had approached the writ Court in which the impugned Judgement and order was passed.

19. Various provisions of the Act of 2012 which the parties have relied upon in course of the hearing are as follows: –

“2. In this Act, unless the context otherwise requires,-

(a) "Appellate Authority" means the Secretary, Judicial Department of the State Government or such authority that the State Government may by general or special order delegate such function to;

(c) "Collector" means the Collector of a district and includes an Additional Collector or any other officer appointed, authorised or empowered by the State Government to exercise all or any of the powers of a Collector under this Act;

(d) "Competent Authority" means any person or authority of the Judicial Department of the State Government authorised to perform the functions of the competent authority under this Act or any other persons or authorities may be authorised by the State Government, by notification in the Official Gazette, to perform such functions of the competent authority or to perform different functions;

(g) "escheat" with all its grammatical variations means the automatic transfer to the State Government of property of a person who dies intestate without any legal heirs according to his personal law and in case of an artificial person such as a corporation, trust, association of persons or society recognized by law to be capable of owning property, whether in its own name or in the name of any governing body or office bearer by whatever name called or otherwise, the transfer to the State Government of property of such artificial person on its dissolution, winding up, becoming defunct whether by operation of law, declaration or in fact, including the circumstances mentioned in section 3 such fact being one that only the Competent Authority will have the power to determine in the manner prescribed;

3. Notwithstanding anything contained in other laws for the time being in force, where a person dies intestate and without leaving legal heirs according to his personal law or any corporation, trust, association or society or the governing body of such corporation, trust, association or society, by whatever name called, recognised by law to be capable of owning property, whether in its own name or in the name of any governing body or office bearer by whatever name called or otherwise, the transfer to the State Government of the property of such artificial person on its dissolution, winding up, becoming defunct whether by operation of law, declaration or in fact or has ceased to exist or is unable to hold the general meeting and reconstitute its new executive committee consecutively for last five years, the property of such person or artificial person, as the case may, be shall automatically stand transferred to the State Government, and the State Government may cause possession or management or administration of such property to be taken over by escheat or lapse, or as bona vacantia for want of rightful owner, and on such transfer having taken place automatically on such finding of fact as referred to in clause (g) of section 2 by the Competent Authority, the State Government shall become the owner of the property without any further act or document being needed.

4. (1) *It shall be duty of the Collector of every district to send monthly reports to the Competent Authority of the occurrence of deaths of persons or the dissolution, winding up, becoming defunct in any manner whatsoever as provided in clause (g) of section 2 of any artificial person, having property within his district, whether such property is partly or wholly within his district, and whether it appears on a preliminary inquiry that the deceased person died intestate without any legal heirs according to his personal law or where there is no legally constituted successor entity in whom the property of the artificial person has vested. Any person whatsoever may send information to the Collector in this regard or may send such information directly to the Competent Authority. Whenever the Competent Authority on any report or on receipt of any information from any source or on his own motion is satisfied that the provisions of this Act applies to any property lying within the State , he shall cause an inquiry to be made as to whether the fact or facts as stated in clause (g) of section 2 as would attract the operation of section 3 of this Act exists or exist and on his being satisfied on such inquiry that such a fact exists he shall pass an order accordingly, recording that such fact exists, on which order recording the existence of such fact the property shall belong and be transferred automatically to the State Government without any further act or document being required.*

(2) *The enquiry held under sub-section (1) shall be of summary nature and for the purpose of such enquiry the Competent Authority may summon and examine on oath any person and may compel production of any document or thing. He shall have all the powers of a civil court but shall not be bound by the provisions of the Code of Civil Procedure (5 of 1908) and shall be entitled to regulate the proceedings before him in accordance with the provisions of natural justice.*

(3) *For the purpose of such inquiry, the Competent Authority shall cause to be published in the Official Gazette or in any three newspapers having wide circulation in the locality where the property is situated, a notice informing the public in general of such report or information having been received, and that an inquiry is proposed to be held on the*

expiry of not less than seven days from the date of publication of such notice, and the time and place of such hearing and the particulars of the property concerned. The newspapers should be so chosen as to ensure that they are in English, Bengali and Hindi or Urdu respectively.

(4) Any Claimant or person, intending to appear in such inquiry with an intention to oppose escheat or lapse and automatic transfer of title to the State Government, may appear on the date of such inquiry, at the time and venue fixed, with a written representation containing the particulars of his claim and the right which he claims in the property including the reasons for his opposing the escheat or lapse, as the case may be, and shall enclose with such representation a copies of all documents that he relies upon and shall also produce before the Competent Authority the originals of such documents. If the copy of any document is not enclosed then the claimant or person shall not be entitled to rely upon it. The Competent Authority shall thereafter pass an order recording his satisfaction that such fact as mentioned in clause (g) of section 2 sufficient to attract the provisions of section 3 exists or does not exist.

Explanation. - Whatever interest is sufficient to maintain an application for letters of administration to the estate of a deceased or obtain winding up or dissolution of a body corporate including a corporation or a company, or receive share of sale of assets of any artificial person recognized to be capable of owning property on its dissolution, sale or becoming defunct, shall be held to be an interest sufficient to maintain an objection or representation against such escheat or lapse in the preliminary inquiry.

(5) The gist of every order passed on such inquiry shall be published in the Official Gazette or in three newspapers, one in English, one in Bengali and one in Hindi or Urdu preferably within a week from the passing of the order.

(6) The decision of the Competent Authority shall be subject to an appeal before the Appellate Authority which shall be made within a period of 30 days from the date of publication of the gist of the order in the manner mentioned in sub-section (5) provided that the Appellate Authority

may allow, for sufficient cause being shown, an appeal to be preferred within a further period of thirty days but not thereafter. The appeal does not have to be in any particular form, but shall contain a concise statement of the grounds on which the appeal is being preferred and all the facts of the case and shall enclose with it the representation made by the appellant before the Appellate Authority with all its enclosures. If a person has not made any representation before the Competent Authority but shows that he has the interest mentioned in the Explanation to sub-section (4), then such appeal shall be maintainable provided that such person explains in a separate application what prevented him from approaching the Competent Authority with such representation, and on the satisfaction in writing recorded by the Appellate Authority as to the cause for such prevention being sufficient.

(7) The decision of the Appellate Authority shall be final and shall not be interfered with except by the High Court of Calcutta exercising jurisdiction under Article 226 or 227 of the Constitution of India or the Supreme Court under Article 136 of the Constitution of India. No suit or other proceeding apart from the aforesaid shall lie against any determination by the Competent Authority or the Appellate Authority”

- 20.** The Act of 2012 has made provisions for escheat and how such property is to be declared to be so. Section 2 has defined various words used in the Act of 2012. It has defined the competent authority in Section 2(d) and the appellate authority in Section 2(a) exercising jurisdiction under the Act of 2012. It has also defined what would constitute escheat in Section 2(g) and the meaning of escheat property. Essentially, any property of a natural person dying intestate and being without any legal heirs shall stand

transferred to the State Government automatically. Likewise properties of legal entities shall stand transferred to the State Government on the dissolution or winding up of the legal entities or the legal entity becoming defunct by operation of law or otherwise.

21. Section 4 of the Act of 2012 has provide for enquiry and appeal. Sub-section (1) of Section 4 has cast a duty upon the collector of every district to send periodical reports to the competent authority. Competent authority has been empowered on the basis of such report or receipt of information or on its own motion to cause an enquiry as to whether Section 2 (g) facts exist to attract operation of Section 3 of the Act of 2012 and if found in the affirmative to pass an order with regard thereto. Appeal provisions has been provided in Section 4 (6) of the Act of 2012. Sub-section (7) of Section 4 has laid down that the decision of the appellate authority shall be final and shall not be interfered with except by the High Court at Calcutta exercising jurisdiction under Article 226 or 227 of the Constitution of India or the Supreme Court under Article 136 of the Constitution of India. It has ousted the jurisdiction of the Civil Court in respect of any determination made by the competent authority or the appellate authority.

22. In the facts of the present case, a notice undertaking an exercise under Section 2 (g) of the Act of 2012 had been issued by the competent authority and published in a newspaper. In response to such notice dated October 25, 2018 Kolkata Port Trust Authorities had laid claim in respect of a part of the portion of the premises concerned. Consequently, the competent authority had proceeded to pass the order dated January 29, 2019 acknowledging ownership of Kolkata Port Trust Authorities of the part of the premises over which, Kolkata Port Trust Authorities laid its claim on and declared the balance to be transferred to the State under the Act of 2012.

23. Under the Act of 2012, the competent authority has the jurisdiction to decide as to whether facts constituting escheat is present in respect of a property or not. As noted above, it had embarked upon such an exercise in respect of the premises concerned resulting in the impugned order.

24. The Act of 2012 has provided for an appeal from an order passed by the competent authority. Such appeal has been provided for under Section 4 (6) of the Act of 2012. Kolkata Port Trust Authorities did not avail of the statutory right of appeal as provided under the Act of 2012 but had filed a writ petition challenging the

order of the competent authority on the ground of erroneous assumption of jurisdiction by the competent authority.

25. A decision of a statutory authority assuming jurisdiction on an erroneous fact is amenable to writ jurisdiction has been laid down in ***Raza Textiles Ltd. (supra). LRs. of Hurji & Ors. (supra)*** in the facts of that has found the particulars of the property declared to vested under escheats was not properly reported.

26. Kolkata Port Trust Authorities did not press before the competent authority its so called claim over the balance portion of the land comprised in the two premises and has allowed the competent authority to decide the issue of escheat under the Act of 2012 on the basis of a document which laid claim to a portion of the two premises. Issue as to whether facts constituting escheat has existed in respect of the property concerned or not is within the domain of the competent authority. Competent authority, in the facts of the present case, has passed the impugned order dated January 29, 2019 on the basis of the material produced on record and the stand taken by Kolkata Port Trust Authorities before it. On the basis of the materials produced by Kolkata Port Trust Authorities before the competent authorities, it cannot be said that,

the competent authority had assumed jurisdiction erroneously or in excess of the Act of 2012.

27. Existence of statutory alternative remedy is not a complete bar to the maintainability of a writ petition as has been observed in ***Godrej Saralee Limited (supra)***.

28. ***L. Hirday Narain (supra)***, ***L. K. Verma Hmt Ltd. and Another (Supra)***, and ***Gujarat Ambuja Cement Ltd. and Another (supra)***, have observed that, if a High Court has entertained a writ petition despite availability of alternative remedy and heard the parties on merits it would be ordinarily unjustified for the High Court to dismiss the same on the ground of non-exhaustion of statutory remedies unless the High Court finds that factual dispute are involved and it would not be desirable to deal with them in a writ petition. Therefore, a writ petition can be dismissed, even after hearing on merits, if it is found the disputes involved are such that it is expedient to have the same adjudicated by a different forum particularly where there exists statutory alternative remedy.

29. The notice issued under the Act of 2012 had invited parties to substantiate their claim of title to immovable properties concerned. Kolkata Port Trust Authorities had submitted a document claiming ownership of a part of such premises. Competent authority had

passed an order on the basis of such claim and in fact, acknowledged Kolkata Port Trust Authorities to be owner of that part of the premises over which it had claimed ownership before it.

30. In the writ Court and in the appeal before us, the Kolkata Port Trust Authorities has claimed ownership of the remaining portion of the two immovable properties also. The balance claim is largely an issue of fact and has to be substantiated by documentary evidence before an authority authorized by law to decide the same. State has not admitted the claim of the Kolkata Port Trust Authorities in respect of the balance portion of the two premises. The competent authority has been vested with the jurisdiction under the Act of 2012 to decide such an issue. Kolkata Port Trust Authorities had an opportunity to raise such an issue before the competent authority and it did not do so. Kolkata Port Trust Authorities had an opportunity to prefer an appeal against the order of the competent authority in terms of Section 4 (6) of the Act of 2012 and it chose not to do so.

31. There are disputes as to the total area comprises the two premises with Kolkata Municipal Corporation making spot visits and stating a particular area which is at variance with the claims that has been made by the State and the Kolkata Port Trust

Authorities. Ideally such disputes should have been raised before the competent authority under the Act of 2012 and the mechanism provided thereunder exhausted to have such disputes resolved.

32. The scheme of the Act of 2012 has provided for a speedy and efficacious adjudicating authority with regard to escheat and an appellate authority for appeals from an order of the competent authority.

33. State had taken the point of maintainability of the writ petition both on the ground of availability of statutory alternative remedy as well as existence of disputed questions of facts, before the learned single Judge, in the affidavit in opposition, filed in the writ petition. State has not raised the point of maintainability for the first time in appeal.

34. *Dunlop India Ltd. and Others (supra)* has observed that, where the statute itself provided an efficacious alternative remedy by way of an appeal, it was not for the High Court to exercise its extraordinary jurisdiction under Article 226 of the Constitution ignoring the complete statutory machinery. In *Greatship (India) Limited (supra)*, the issue of maintainability of writ petition in the teeth of availability of statutory alternative remedy has been considered in the light of the various authorities. It has held that,

the High Court erred in entertaining a writ petition against an Assessment Year, bypassing the statutory remedies.

35. Order of statutory authorities are to be tested more on the basis of the decision making process rather than the decision itself unless, it is shown that on the face of the record, the impugned decision is vitiated by patent illegality or perversity. In the facts of the present case, decision of the competent authority cannot be said to have been taken in breach of the principle of natural justice or not to contain any reasons with regard thereto or in excess of jurisdiction or in assumption of jurisdiction not vested upon it by law or to suffer from any patent illegality or perversity.

36. ***Bokaro and Ramgur Ltd. (supra)*** has observed that, a person cannot sustain a petition under Article 32 of the Constitution where he claims of infringement of his right to hold property before establishing his right with regard thereto. ***Bhawani Singh and Others (supra)*** has observed that, disputed question relating to title cannot be satisfactorily gone into or adjudicated in a writ petition. ***Sarvepalli Ramaiah (supra)*** has held that administrative decisions are subject to judicial review under Article 226 of the Constitution, only where there is patent illegality or perversity.

37. In the facts of the present case, the competent authority did not act in excess of jurisdiction vested upon it in law and in any event the writ petitioners had a statutory alternative remedy available which was efficacious under the Act of 2012.

38. Disputed questions of fact exist with regard to title to two immovable properties which should have been adjudicated by the competent authority if so raised and by the appellate authority again if so raised in an appeal.

39. In view of the discussions above we set aside the impugned judgement and order. The decision of the competent authority is restored. In the event, the respondent No. 1 before us is aggrieved by the impugned decision of the competent authority, they may avail of their remedies under the Act of 2012.

40. APO 123 of 2020 along with other connected applications are also disposed of.

[DEBANGSU BASAK, J.]

41. I agree.

[MD. SHABBAR RASHIDI, J.]