

**In the High Court at Calcutta
Civil Appellate Jurisdiction
Appellate Side**

**The Hon'ble Mr. Justice Sabyasachi Bhattacharyya
And
The Hon'ble Mr. Justice Uday Kumar**

FMA No. 939 of 2025

+

CAN 1 of 2025

**Chandan Baral and Others
– Versus –
Faisal Hussain and Others**

With

FMA No. 950 of 2025

+

CAN 1 of 2025

**Majid Khan and Others
– Versus –
Nanney Khan and Others**

For the appellants
in both the Appeals

: Mr. Subir Sanyal, Ld. Sr. Adv.,
Mr. Dibyo Mukherjee,
Ms. Sumouli Sarkar,
Mr. Sourojit Mukherjee

For the NHA in
FMA 950 of 2025

: Ms. Manika Roy,
Ms. Ankita Chowdhury,
Mr. Atanu Sur

For the respondent nos. 1 & 2
in FMA 950 of 2025 & for the
respondent nos. 14 and 15
in FMA 939 of 2025

: Mr. Rwitendra banerjee,
Mr. Sandip Kundu,
Mr. Shibasis Chatterjee

For the
Respondent nos. 39 to 45 in
FMA 939 of 2025⁴ and for the
Respondent nos. 35 to 41 in
FMA 950 of 2025 : Mr. Chittapriya Ghosh,
Ms. Aiswariya Gupta,
Ms. Priyanka Saha

For the respondent no. 10 in
FMA 939 of 2025 : Mr. Subrata Bhattacharyya

Heard on : 28.08.2025, 01.09.2025
& 08.09.2025

Reserved on : 08.09.2025

Judgment on : 25.09.2025

Sabyasachi Bhattacharyya, J.:-

1. Both the above appeals have been preferred against a common judgment of a learned Single Judge dated May 1, 2025 by which two writ petitions bearing WPA No. 3419 of 2025 and WPA No. 4469 of 2025 were allowed, thereby setting aside Order No. 4 dated November 27, 2024 passed by the Competent Authority of Land Acquisition (CALA), Purulia, apportioning compensation payable for acquisition of Plot No. 786 in Mouza – Belguma, JL No. 41, in connection with LA Case No. 21 of 2015/9H-32, for NH-32 Project Work under the National Highways Act, 1956 (hereinafter referred to as “the 1956 Act”) between the present appellants.
2. The short issue involved in the present appeal is the interplay between sub-sections (3) and (4) of Section 3H of the 1956 Act.

3. The writ court, while setting aside the impugned order of the CALA, directed the dispute to be referred to the jurisdictional Principal Civil Court of Original Jurisdiction within the contemplation of sub-section (4) of Section 3H.
4. The learned Senior Advocate appearing for the appellants in both the matters seeks to take the court through a genealogical table, contending that one Nesharath Ali Khan (since deceased) was the original owner of the concerned plot, that is Plot No. 786, which has a total area of 2.07 acres, out of which about 0.919 acre was acquired by the Highway Authority. Nesharath died intestate in 1945, leaving behind his two sons, namely Md. Khan and Abed Ali Khan, and two daughters, Jamal Banu and Jahan Bibi. According to the appellants, the said daughters transferred their share by way of a gift deed (heba) in 1948 to Md. Khan. Md. Khan subsequently sold his share in the year 1951 to Nasiban Bibi and Sahidan Bibi. Subsequently, a partition suit having been filed by Sahidan Bibi, the same culminated in a compromise decree dated October 3, 1966, whereby Md. Khan was acknowledged to be the owner of the property originally transferred by Jamal Banu and Jahan Bibi in his favour. Md. Khan gifted the property in 1973 in favour of his wife Badrunessa, who sold a portion of the property in favour of Lakshmi Mahato and Besi Mahato, who in turn transferred the property in favour of Chandan Baral and others.

5. Be that as it may, it is argued that the legal heirs of Md. Khan, the writ petitioners before the learned Single Judge, have no right, title and interest in respect of the property of Abed Ali Khan (50% share) and that Majid Khan and Ashma Begum, the appellant nos. 1 and 2 in FMA No. 950 of 2025, being the son and daughter respectively of Abed Ali Khan, inherited the said 50%.
6. Consequentially, it is argued that the order passed by the CALA on November 27, 2024 holding that Majid Khan and Ashma Begum will get 50% compensation of the acquired area of 0.919 acre in Plot No. 786 is valid, lawful and within the competency of the CALA to adjudicate.
7. It is argued that private respondent nos. 35 to 41 have not questioned the orders of the CALA and, thus, have accepted the same. Hence, they cannot raise any objection as to the correctness of the same at this juncture.
8. Learned senior counsel argues that Section 3H(3) of the 1956 Act confers jurisdiction on the Competent Authority (CALA) to form its opinion and determine the persons who are entitled to receive compensation. Section 3-I of the Act clothes the Competent Authority with the power of a Civil Court for such purpose. Only when a dispute arises with regard to apportionment of compensation, the dispute is to be referred to the Principal Civil Court of Original Jurisdiction under Section 3H(4).

9. Thus, it is argued that the learned Single Judge acted without jurisdiction in setting aside the order of the CALA and referring the dispute to the Civil Court.
10. Learned counsel for the respondent nos. 35 to 41, although adopting the argument on law made by the appellants, contends that Badrunessa, the vendor of Lakshmi Mahato and Besi Mahato and the wife of Md. Khan, sold only a portion of the property, which was gifted to her in 1973 by her husband, to the said Lakshmi Mahato and Besi Mahato.
11. Out of the remainder of Badrunessa's property, transfers were effected in favour of the respondent nos. 35 to 41, in support of which title deeds were produced by the said respondents. Accordingly, learned counsel for the respondent nos. 35 to 41, although supporting the order of the learned Single Judge, seeks to introduce the right of the said respondents to get compensation in respect of their purchased portion of the property.
12. Learned counsel for the respondent nos. 10 and 11, in line with the appellants' arguments, also contends that respondent nos. 35 to 41 have no right of audience in the appeal, since they never challenged the order of the Competent Authority.
13. It is further contended that respondent nos. 35 to 41 have claimed their title on the basis of a deed purportedly executed by Badrunessa in the year 2005 and have also taken the name of one Anadi Mahato (respondent no. 38), who is the son of Umesh

Mahato. Umesh purchased land from Md. Khan in 1985, whereas Md. Khan had already transferred his entire share to Badrunessa in 1973 and had no land left in the year 1985.

- 14.** It is further argued that the plot-in-question has been acquired for expanding NH-32 and the land adjacent to the road has been taken by the authority. It appears from the schedule of the deed executed in the year 2005 that there is no existence of any road but land of other persons around the subject-property. Also, the names of the concerned respondents are not tallying with the names of the purchasers.
- 15.** It is further argued on behalf of respondent nos. 10 and 11 that in view of the compromise decree passed in Partition Suit No. 129 of 1962, Sahidan Bibi had no right to execute the gift deed dated January 6, 2020, on which the claim of the writ petitioners is based.
- 16.** Also, Sahidan Bibi never made any claim of compensation, despite being entitled to money in terms of the compromise decree passed in the partition suit. Such waiver of Sahidan Bibi, it is contended, is binding upon the writ petitioners/respondents.
- 17.** Lastly, it is argued by the respondent nos. 10 and 11 that the Notification under Section 3D of the 1956 Act was issued on March 4, 2016 and the subject-plot vested in the Central Government free from all encumbrances as on that date. Thus, the purported gift deed of 2020, executed subsequently, is also void and no title

passed thereby. Accordingly, it is argued that the writ petitioners in WPA No. 4496 of 2025 have no valid claim.

18. Learned counsel for the respondent nos. 1 and 2, who were the writ petitioners in WPA No. 3419 of 2025, argues that sub-sections (3) and (4) of Section 3H have to be construed harmoniously. Upon such a construction, it is the Principal Civil Court of Original Jurisdiction which has the power under Section 3H(4) of the 1956 Act to decide the contentious issues, if raised before the Competent Authority. Learned counsel relies on *Arun S/O Trimbakrao Lokare vs. State of Maharashtra and others*, reported at 2017 (6) Mh.L.J. 612, where a Division Bench of the Bombay High Court held that where there is a dispute as to the entitlement of shares and apportionment of compensation, sub-section (4) of Section 3H requires such dispute to be referred to the Principal Civil Court of Original Jurisdiction, which, by necessary implication excludes the jurisdiction of the Competent Authority, which is entitled to merely decide the point of apportionment of the compensation among several persons under sub-section (3) of Section 3H. It was held that such interpretation strikes a balance between the two sub-sections of Section 3H and make them operative in separate spheres. Another Division Bench of the Bombay High Court in *Shri. Rajaram Waman Rane and others vs. Shri. Ramkrishna Mahadev Rane and others*, reported at 2018 SCC OnLine Bom 6437, relied on and reiterated the said proposition.

19. Learned counsel for the respondent nos. 1 and 2 next argues that the question of title cannot be decided by the Competent Authority, who has no expertise in deciding intrinsic questions of title, which comes within the domain of a competent Civil Court.
20. Thus, where there is some degree of entitlement to be decided, it is the Civil Court, and not the Competent Authority, which has jurisdiction.
21. It is argued that Section 3H, sub-sections (3) and (4) are to be harmoniously construed in the light of the said principle.
22. It is contended that sub-section (3) does not overlap sub-section (4) of Section 3H and the two provisions operate in different spheres, if properly interpreted.
23. Learned counsel relies on *Sharda Devi vs. State of Bihar and another*, reported at (2003) 3 SCC 128, where the Supreme Court undertook a comparative study of Sections 18 and 30 of the Land Acquisition Act, 1894, which, it is submitted, are *pari materia* with sub-sections (3) and (4) of Section 3H of the 1956 Act.
24. Learned counsel next cites *Sushil Chandra Sharma and Others vs. Union of India and Others*, reported at 2018 SCC OnLine Cal 9903, where a learned Single Judge of this Court held that both the said provisions are neither mutually destructive to one another, nor are they inconsistent to each other.
25. Disputes regarding title have been raised by the writ petitioners, it is submitted, both on the strength of the compromise decree

passed in the partition suit as well as the withdrawal of a suit filed by some of the appellants, such questions are required to be decided by the Principal Civil Court of Original Jurisdiction.

- 26.** Before going into the factual aspect of the matter, this Court is required to adjudicate on the scope of operation of sub-sections (3) and (4) of Section 3H of the 1956 Act, taking into consideration the overlaps between the two provisions and the interplay between the two.
- 27.** The learned Single Judge, while passing the impugned order, did not enter into the merits of the contentions of the parties, but merely referred the dispute to the Principal Civil Court of Original Jurisdiction under sub-section (4), holding that the Competent Authority did not have the power to decide the issues raised under sub-section (3) of Section 3H.
- 28.** It has been argued by the appellants that the powers conferred under Section 3-I on the Competent Authority akin to a Civil Court are an indicator that the Competent Authority has the right to decide the disputes as to entitlement of the claimants to get compensation, on a similar footing as a Civil Court.
- 29.** However, such argument is inherently fallacious. Section 3-I of the 1956 Act confers procedural powers available to a Civil Court, while trying a suit under the Code of Civil Procedure, on the Competent Authority in respect of certain matters. The sub-clauses of Section 3-I indicate the limited powers vested in the

Competent Authority, such as summoning and enforcing attendance of any person and examining him on oath, requiring discovery and production of documents, reception of evidence on affidavits, requisitioning public records and issuing commission for examination of witnesses, all of which are *ex facie* procedural in nature.

- 30.** Such investiture of certain procedural powers on the Competent Authority cannot be equated with vesting of substantive jurisdiction similar to a Civil Court. Such procedural powers can only be exercised by the Competent Authority within the framework of the substantive powers conferred on it by the 1956 Act. Thus, Section 3-I does not confer any independent jurisdiction on the Competent Authority to travel beyond its powers other than those conferred by the 1956 Act itself.
- 31.** Such powers are spread over the statute, including Section 3G, which empowers the Competent Authority to determine the amount payable as compensation, Section 3E, to take possession of the vested land, and Section 3H(3), to determine the persons entitled to receive amount payable to each of them where there are several claimants interested in compensation.
- 32.** Thus, Section 3-I cannot be read out of context and construed to vest independently powers which are otherwise not conferred on the Competent Authority by the 1956 Act.

- 33.** The jurisdiction vested in the Competent Authority in the present context is derived exclusively from sub-section (3) of Section 3H. For a proper examination of the issue, it is necessary to set out Section 3H as a whole.

“3H. Deposit and payment of amount.—*(1) The amount determined under section 3G shall be deposited by the Central Government in such manner as may be laid down by rules made in this behalf by that Government, with the competent authority before taking possession of the land.*

(2) As soon as may be after the amount has been deposited under sub-section (1), the competent authority shall on behalf of the Central Government pay the amount to the person or persons entitled thereto.

(3) Where several persons claim to be interested in the amount deposited under sub-section (1), the competent authority shall determine the persons who in its opinion are entitled to receive the amount payable to each of them.

(4) If any dispute arises as to the apportionment of the amount or any part thereof or to any person to whom the same or any part thereof is payable, the competent authority shall refer the dispute to the decision of the principal civil court of original jurisdiction within the limits of whose jurisdiction the land is situated.

(5) Where the amount determined under section 3G by the arbitrator is in excess of the amount determined by the competent authority, the arbitrator may award interest at nine per cent. per annum on such excess amount from the date of taking possession under section 3D till the date of the actual deposit thereof.

(6) Where the amount determined by the arbitrator is in excess of the amount determined by the competent authority, the excess amount together with interest, if any, awarded under sub-section (5) shall be deposited by the Central Government in such manner as may be laid down by rules made in this behalf by that Government, with the competent authority and the provisions of sub-sections (2) to (4) shall apply to such deposit.”

- 34.** A bare perusal of the two sub-sections shows that, indeed, there are certain apparent overlaps of jurisdiction between the

Competent Authority and the Principal Civil Court of Original Jurisdiction under the said provisions.

- 35.** For example, a Competent Authority shall, under sub-section (3), “determine the persons who in its opinion are entitled to receive the amount payable to each of them”.
- 36.** On the other hand, the Principal Civil Court, under sub-section (4), shall hear a reference as to “apportionment of the amount or any part thereof”, or as to “any person to whom the same or part thereof is payable”.
- 37.** Thus, both the provisions, at the first blush, clothe the Competent Authority on the one hand and the Civil Court on the other to determine the persons who are entitled to receive the compensation amount determined under Section 3G as well as to determine/apportion the amount payable to each of them.
- 38.** However, the key determinant, on a composite reading of the two provisions, is the expression “dispute”, which finds place in sub-section (4). The stimulus to refer a matter to the Civil Court is any “dispute” which may arise in the apportionment of the compensation or as to the person to whom the same is payable.
- 39.** The differentiating factor between sub-sections (3) and (4) is the expression “if any dispute arises”, even if there is cosmetic resemblance between the languages of the two provisions otherwise.

- 40.** Another factor which is required to be considered is the thrust that sub-section (3) gives on the identity of the person entitled to receive the compensation. The exact expression used is “shall determine the persons who in its opinion are entitled ...” which, then, is used to predicate the amount payable to each of them. Although, on the first impression, it transpires that if several persons claim to be interested in the amount of compensation deposited under sub-section (1) of Section 3H, there is implicit dispute between them as to entitlement which, then, should be determined by the Competent Authority, however, it is not necessary that wherever several persons claim interest in the compensation there has to be a “dispute” as regards their respective entitlements to the same. It may very well be that ‘X’ number of persons are interested in the compensation and the Competent Authority determines which persona out of the said number is entitled to what portion of the compensation.
- 41.** On the other hand, the pivot of sub-section (4) is to adjudicate on ‘disputes’, both as regards apportionment of the amount (or any part thereof) and as to which person is entitled to such compensation (or any part thereof).
- 42.** Hence, the cardinal distinguishing factor between sub-sections (3) and (4) is “dispute” between the multiple claimants.

- 43.** In the absence of any such dispute, the Competent Authority is to merely determine the compensation payable to each of the persons.
- 44.** On the other hand, the moment a dispute arises as to entitlement of a person, vis-à-vis the other claimants and/or regarding the apportionment of the amount or part thereof *inter se* the claimants, the same has to be referred to the Principal Civil Court of Original Jurisdiction. In such a case, the Competent Authority cannot retain jurisdiction any further.
- 45.** Any other interpretation, even otherwise, would be counter-intuitive and contrary to settled propositions of law in India.
- 46.** Section 9 of the Code of Civil Procedure vests jurisdiction on the Civil Courts to decide any disputes of civil nature by default, unless expressly or impliedly barred by any statute.
- 47.** There is nothing within the four corners of Section 3H of the 1956 Act which debars the jurisdiction of the Civil Court. Even sub-section (3) of Section 3H does not refer to any dispute at all and operates in a simpliciter situation where there are several claimants and the Competent Authority is merely to allocate the compensation according to the respective shares of each such person.
- 48.** The moment a dispute occurs, sub-section (4) of Section 3H mandates a reference to the Civil Court, in consonance with the underlying principle of Section 9 of the Code of Civil Procedure.

- 49.** Even otherwise, respondent nos. 1 and 2 are justifying in arguing that it would amount to an absurdity if a Competent Authority, who is normally not a judicial officer specially trained in civil adjudications, is clothed with the power to adjudicate *quasi-judicial* disputes whereas the Principal Civil Court of Original Jurisdiction is denuded of such power and is relegated to make arithmetical calculations of apportionment of compensation between multiple claimants.
- 50.** The two Division Benches of the Bombay High Court, respectively in *Arun S/O Trimbakrao Lokare (supra)*¹ and *Shri. Rajaram Waman Rane (supra)*² support the above interpretation regarding the interplay between sub-sections (3) and (4) of Section 3H. In *Sushil Chandra Sharma (supra)*³, a learned Single Judge of the Calcutta High court held in similar tune.
- 51.** Although *Sharda Devi (supra)*⁴ is on a somewhat different footing, inasmuch as Sections 18 and 30 of the Land Acquisition Act, 1894 were being considered therein, the language of which are somewhat different from sub-sections (3) and (4) of Section 3H of

1. *Arun S/O Trimbakrao Lokare vs. State of Maharashtra and others*, reported at 2017 (6) Mh.L.J. 612

2. *Shri. Rajaram Waman Rane and others vs. Shri. Ramkrishna Mahadev Rane and others*, reported at 2018 SCC OnLine Bom 6437

3. *Sushil Chandra Sharma and Others vs. Union of India and Others*, reported at 2018 SCC OnLine Cal 9903

4. *Sharda Devi vs. State of Bihar and another*, reported at (2003) 3 SCC 128

the 1956 Act, the principle laid down therein only goes on to bolster the proposition discussed in *Sushil Chandra Sharma (supra)*³.

- 52.** Thus, there cannot be any manner of doubt that the learned Single Judge, in the instant case, was justified in law in directing the Competent Authority to refer the dispute to the Principal Civil Court of Original Jurisdiction under sub-section (3) of Section 3H of the 1956 Act, since a dispute has arisen as regards apportionment of the compensation and as to the persons to whom the same is payable.
- 53.** In view of the above conclusion, it would be premature for this Court to enter into an evaluation of the components of such entitlement as claimed by the respective parties, since, if such an exercise is undertaken by this Court, the jurisdiction of the Principal Civil Court of Original Jurisdiction under Section 3H(4) of the 1956 Act would be usurped and the said issues would be pre-determined.
- 54.** Thus, in view of our above observations, the factual aspect of the respective entitlement of parties need not be gone into at all at this stage and are best left to be adjudicated upon by the Principal Civil Court of Original Jurisdiction.
- 55.** Accordingly, FMA No. 939 of 2025 with FMA No. 950 of 2025 are dismissed on contest without any order as to costs, thereby

affirming the impugned judgment dated May 1, 2025 passed in WPA No. 3419 of 2025 and WPA No. 4469 of 2025.

- 56.** In view of the pendency of the appeals, the time-limit of 90 working days granted by the Writ Court to the Competent Authority for reference of the matter to the Principal Civil Court of Original Jurisdiction is extended till November 30, 2025.
- 57.** Consequentially, the connected applications in the two appeals, both bearing CAN 1 of 2025, respectively stand disposed of.
- 58.** Interim orders, if any, stand vacated.
- 59.** Urgent certified copies, if applied for, be supplied to the parties upon compliance of due formalities.

(Sabyasachi Bhattacharyya, J.)

I agree.

(Uday Kumar, J.)