

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

Present:

The Hon'ble Justice Debangsu Basak

And

The Hon'ble Justice Md. Shabbar Rashidi

**MAT 886 of 2024
With
IA No.: CAN 2 of 2024**

**Sri Uttam Kumar Dey & Ors.
Vs.
The State of West Bengal & Ors.**

For the Appellants	: Mr. Prantick Ghosh, Advocate Mr. Prasad Bhattacharyya, Advocate Ms. Shramani Ghosh, Advocate
For the State	: Mr. Ayan Banerjee, Advocate Mr. Amirtalal Chatterjee, Advocate
For the Respondent no.6/NHAI	: Ms. Manika Roy, Advocate Ms. Ankita Chowdhury, Advocate Mr. Atanu Sur, Advocate
Heard & Judgment on	: May 1, 2025

DEBANGSU BASAK, J.:-

1. Appeal is directed against an order dated February 29, 2024 passed in WPA 29187 of 2017, WPA 28480 of 2017 and WPA 29193 of 2017.

2. Appellants before us claim that they are entitled to 33% share in the money awarded in respect of an acquisition proceedings.
3. In support of such claim, reliance is placed on an order dated September 5, 2017 passed in W.P. 10387 (W) of 2017, order dated November 6, 2017 passed by the competent authority as well as an order dated March 22, 2017 passed in LA Case in respect of the acquisition proceedings.
4. State and the NHAI are represented.
5. NHAI initiated acquisition proceedings for the purpose of acquiring land for highway. Land belonging to the appellants were acquired in the acquisition proceedings. In such acquisition proceedings, an order dated March 22, 2017 was passed by the competent authority where, share of the appellants was kept at 33.33% provisionally. Such order specified that, such percentage of 33.33 is kept reserved conditionally and can be disbursed to them if title of 1/3 is decreed in the pending suit.
6. There is a suit for partition with regard to the immovable property concerned. Such suit is yet to be decreed. Attention of this Court is not drawn to any preliminary decree declaring the shares of the respective parties in the partition suit being passed.
7. A writ petition was filed with regard to the compensation receivable. Such writ petition being W.P. 10387 (W) of 2017 was disposed of by an order dated September 5, 2017 requiring the authorities to disburse

the share of compensation to the appellants after giving the appellants and the private respondents an opportunity of hearing.

8. Competent authority thereafter, initiated proceedings for disbursement of share of compensation in terms of the order of the High Court dated September 5, 2017. Competent authority passed an order dated November 6, 2017 where the competent authority noted that, the shares of private respondents were undisputed and that claim of 33% share made by the appellants were disputed. Such order, however, records that, the claim of the appellants to the extent of 17% were admitted by the private respondents. In view of such admission, competent authority proceeded to disburse 17% of the compensation amount to the appellants. The balance amount is kept with the appropriate authority subject to the decision that may be rendered by an appropriate court.
9. As noted above, the partition suit is yet to be disposed of. There is no pronouncement brought on record of any competent court declaring the exact share of the appellants in respect of the property concerned.
10. Learned Single Judge, therefore, rightly disposed of the writ petition by granting liberty to the appellants to accept 17% of the compensation as offered by the respondent authorities without prejudice to their rights and contentions with liberty to the appellants to claim further compensation commensurate with the share in the plot in question subject to the result of the partition suit.

11. We find no ground to interfere with the impugned order.
12. **MAT 886 of 2024** and **IA No.: CAN 2 of 2024** are disposed of without any order as to costs.

(Debangsu Basak, J.)

13. I agree.

(Md. Shabbar Rashidi, J.)

(AD)