

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

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

**RVW No. 208 of 2025
With
CAN 1 of 2025
with
RVW No. 209 of 2025
with
CAN 1 of 2025
State of West Bengal
vs
Rubber Products and Moulding Company**

For the State/review applicant:		Mr. Susovan Sengupta, Ld. AGP, Mr. Himangshu Ghosh
For the respondent	:	Mr. Debayan Bera, Ld. Snr Adv., Mr. Swapan Kumar Kar
Heard on	:	19.08.2025, 25.08.2025 28.08.2025, 08.09.2025 & 09.09.2025
Hearing concluded on	:	09.09.2025
Judgment on	:	17.09.2025

Sabyasachi Bhattacharyya, J.:-

1. The State of West Bengal has filed the present application for review of a judgment and order dated April 30, 2025, passed in F.A No.84 of 2019, whereby it was, *inter alia*, held that the enhanced compensation award was found to be invalid on the ground that the acquisition proceeding had lapsed in view of the delay in passing the award, more

than two years after the issuance of the notice under Section 9 (3B) of the Land Acquisition Act, 1894 (hereinafter refer as the “1894 Act”).

2. The relevant facts of the case, in a nutshell, are that initially the subject-land was requisitioned by the State under Section 3 of the West Bengal Land (Requisition and Acquisition) Act, 1948, (for short, “the 1948 Act”). Subsequently, a notification under Section 4(1a) of the 1948 Act was published in the Official Gazette in the year 1985. Due to subsequent amendments to the governing legislation, the said notification lapsed and a fresh notification under Section 4(1a) of the 1948 Act was issued by the Land Acquisition Collector on March 11, 1997.
3. Learned Additional Government Pleader (AGP) submits that by efflux of time, the 1948 Act expired after March 31, 1997. The provisions of Section 9(3A) and Section 9(3B) were incorporated in the 1894 Act by the West Bengal Amendment Act of 1997 with effect from April 1, 1997, when the other provisions of the 1948 Act, including Section 7A, were not in existence, save and except in respect of lands which were vested in the State Government by invoking Section 4(1a) of the 1948 Act which were issued prior to the 1997 Act.
4. By placing reliance on sub-sections (3A) and sub-section (3B) of Section 9 of the 1894 Act, the learned AGP contends that as per the second proviso of the same, upon the Collector taking possession of the land, it is deemed to stand already vested in the Government.
5. It is submitted that a notice under Section 9(3B) was issued on November 12, 2001 and as soon as the same came into force, the

lands-in-question vested with the State Government free from all encumbrances. Thus, it is argued that the award was published on December 12, 2001, which was well within time and, as such, the finding of this Court in the order under review, to the extent that the proceeding had lapsed, was perverse and an error apparent on the face of the records.

6. Learned AGP places reliance on an unreported judgment of the Supreme Court in the matter of *Kishundeo Rao and Others, vs. Govind Rao and Others*, as well as an unreported Division Bench judgment of this Court in the matter of *Shri Sadhan Roy (Budhuk) and others vs. Shri Arvind Kumar Singh and others*, in order to elaborate on the power of the court to review its own judgment in the event there is an error apparent on the face of the record, irrespective of the parameters of Order XLVII of the Code of Civil Procedure not being strictly applicable.
7. Learned AGP next cites *Reliance Airport Developers (P) Ltd vs. Airports Authority of India and Ors.*, reported at (2006) 10 SCC 1, in support of the proposition that if there is an error of law, the courts have ample power to review the said judgment.
8. Learned AGP further relies on another unreported judgment of the Supreme Court in the matter of *State of West Bengal and others vs. Mandodori Bhakat (dead) by LR's and Others* in support of the proposition that in cases where there was no mining activity of the land-in-question, it will be open for the State or the Acquiring Authority to take steps under the provisions of the Right to Fair Compensation

and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 1913 (in brief, “the 2013 Act”), if so advised.

9. Learned counsel for the opposite party in the review application (land-losers) submits that the notification under Section 4(1a) was published on March 11, 1997, and, as such, the award ought to have been passed within two years from the date of issuance of the notice under Section 9(3B), that is, on or before November 12, 2001, whereas, in the present case, the award was declared on December 12, 2001. Therefore, the entire acquisition proceedings stood lapsed by operation of law, including the notification under Section 4(1a) published on March 11, 1997.
10. Learned counsel next argues that there is a distinction between the superior and inferior courts in connection with jurisdiction. Whereas no matter is deemed to be beyond the jurisdiction of a superior court unless it is expressly shown to be so, nothing is within the jurisdiction of an inferior court unless it is expressly shown on the face of the proceedings that the particular matter is within the cognisance of the particular court.
11. Learned counsel next cites an unreported Division Bench judgment of this Court in the matter of *The Board of Councillors, Sainthia Municipality and Another vs. Sundar Devi Anchalia and Others*, in support of the proposition that where a requisition order was published on October 25, 1989, and possession of the land was taken on November 16, 1989, but no notice under Section 4(1a) of the Act of

1948 was issued, the compensation would be calculated in terms of the 2013 Act.

- 12.** It is submitted that the said judgment was not interfered with by the Supreme Court.
- 13.** By citing another unreported Division Bench judgment of this court in *State of West Bengal and Ors. vs. Asit Das and Others*, it is contended that the procedure under the 2013 Act would be applicable where no proceedings were initiated either under the 1948 Act or the 1894 Act.
- 14.** Learned counsel further cites a Division Bench judgment of this Court in the matter of *Chairman, Kolkata Metropolitan Development Authority v. Pawan Kumar Chowdhury and others*, reported at 2025 SCC OnLine Cal 5952, where it was held that default in making and publishing an award within the time period stipulated causes lapse of the notice under Section 4(1a) of the 1948 Act. The net result of the interplay between the provisions of 1948 and 1894 Act, as amended, is that there has to be a notice under Section 9(3A) and an award to be passed within the time stipulated for the vesting to take place. In the event of non-compliance of any of the statutory provisions, the notice under Section 4(1a) of the Act of 1948 has to stand lapsed.
- 15.** Learned counsel relies on a Three-Judge Bench decision of this court in the matter of *State of West Bengal v. Sabita Mondal*, reported at (2011) 3 CHN 555 and a judgment of a learned Single Judge of this Court in *Sabitri Devi & Ors. vs. State of West Bengal & Ors.* reported at 2002 (3) CHN Cal 108 in respect of the argument that where a notice under Section 4(1a) of the 1948 Act stood lapsed by operation of Section 7A of

the said Act, the entire acquisition process is to be deemed to stand lapsed.

16. Learned counsel next relies on *Mandodori Bhakat v. State of West Bengal*, reported at (2013) 1 CHN 444, where it was observed that there arises no question of validation of lapsed proceedings under Section 7A of the 1948 Act by the subsequent Amendment Act of 2011.
17. Upon hearing learned counsel for the parties we came to the following decision:
18. Insofar as the power of review is concerned, by dint of the propositions laid down by the Hon'ble Supreme Court in the judgements cited by the State on such issue, even errors of law, if apparent on the face of the record, come within the purview of Order XLVII of the Code of Civil Procedure.
19. The question which arises in the present case is whether there was any error apparent on the face of the Order dated April 30, 2025.
20. Examining the matter in the above context, certain dates acquire importance:

<u>Date</u>	<u>Event</u>
April 29, 1997	The subject-land was requisitioned and possession taken u/S. 3 of the 1948 Act.
March 11, 1997	Notice under Section 4(1a) of the 1948 Act published in the Official Gazette.
November 12, 1999	Notice under Section 9(3B) of the 1894 Act was published.
December 12, 2001	Award of compensation was passed.

- 21.** It is an admitted position that the notice of acquisition was issued under the 1948 Act on March 11, 1997. Section 1(4) of the 1948 Act, as it stood originally, stipulated that the Act would remain in force till March 31, 1994. However, by the West Bengal Amendment Act of 1994, the life of the Act was extended till March 31, 1997.
- 22.** By the West Bengal Amendment of 1997, with effect from April 1, 1997, Sections 9(3A) and 9(3B) as well as the second provision of Section 11(A) were introduced in the 1894 Act.
- 23.** Under Section 4(2) of the 1948 Act, which was in force till March 31, 1997, the subject-land vests in the State Government absolutely on and from the date of the notice (in the present case, March 11, 1997). However, Section 7A of the 1948 Act, which was introduced by the Amendment Act of 1996 with effect from April 1, 1994, stipulates that the Collector shall make an award under Section 7(2) of the 1948 Act within a period of three years from the date of the publication of the notice under Section 4(1a) and *if such award is not made within the period as aforesaid, the said notice shall lapse.*
- 24.** Section 9, sub-section 3(A) and 3(B) as well as the second proviso to Section 11A were introduced in the 1894 Act with effect from May 2, 1997 by the West Bengal Amendment of 1997. As per the second proviso introduced to Section 11A, in respect of acquisition of the land referred to in sub-sections 3(A) and 3(B) of Section 9, the award shall be made within the period of two years from the date of issuance of the public notice under Section 9. However, unlike the parent Section, that is, Section 11A(1), there is no associated rider to the second proviso to

the effect that the entire proceedings of the acquisition of the land shall lapse unless award was made within the period of two years from the date of the publication of the declaration.

- 25.** Section 11A(1) of the parent Section operates in respect of declarations made under Section 4 of the 1894 Act itself and cannot be applicable in the context of Sections 9 (3A) and 9 (3B) of the 1948 Act.
- 26.** On the other hand, the second proviso to Section 11A, introduced by the West Bengal Amendment Act of 1997, operates within the limited scope of sub-sections 3(A) and 3(B) of Section 9, which were introduced simultaneously with the second proviso.
- 27.** The present proceeding is governed by sub-section 3(B) of Section 9 of the 1948 Act, which contemplates that a notice shall be served by the Collector in consonance of Section 9 of the parent Act and in every such case, the provision of Sections 4, 5 and 5A, 6, 7, 8 and 16 of the 1894 Act shall be deemed to have been complied with. Thus, the necessary paraphernalia under the 1894 Act would be deemed to stand waived in a case where the land was requisitioned and a notice under Section 4(1a) of the 1948 Act was already issued. Since the Section 16 stage is supposed by deeming fiction to have been complied with as per sub-section 3(B), it should be deemed that upon taken possession of the land, the same stands vested absolutely in the Government free from all encumbrances, which is akin to Section 4(2) of the 1948 Act which provides that such notice under Section 4(1a) of the 1948 Act and the vesting of the land in favour of the Government occur simultaneously. Seen from such perspective, it cannot be said that

under normal circumstances, the land, if it stood vested, can subsequently be divested.

- 28.** The second proviso after Section 9(3B) indicates the same proposition, since it provides that when the Collector makes an award under Section 11 of the 1894 Act in respect of a land covered by sub-section (3B) of Section 9, the passing of the award shall be only for the purpose of payment of due compensation to the persons interested but the land has, upon the Collector taking possession thereof, already vested absolutely in the Government, free from all encumbrances.
- 29.** The second proviso of Section 11A, introduced by the West Bengal Amendment, stipulating a two-year period for passing the award from the date of the issue of the public notice under Section 9, would thus only operate in respect of the award but passing of the award beyond such period would not *per se* lapse the acquisition proceeding as a whole, which would have the effect of divesting the land from the State, since the vesting is already deemed to have happened with the publication of the notice under Section 4(1a) of the 1948 Act.
- 30.** Hence, going simpliciter by the second proviso to Section 9(3B), read with the second proviso to Section 11A, introduced by virtue of the West Bengal Amendment of 1997 into the 1894 Act, the lapse of two years after the publication of the notice under Section 9(3B) would not *per se* have the effect of lapsing the vesting but only debars passing of an award.
- 31.** However, the effect of Section 7A, which was introduced on and from April 1, 1994, would come into play. As per the said provision, the

Collector has to make an award under sub-section (2) of Section 7 within the period of three years from the date of the publication of the notice under Section 4(1a) and if the award is not made within the said period, the notice shall lapse. In the present case, the notice under Section 4(1a) of 1948 Act was published on March 11, 1997 but the award was passed on December 12, 2001, whereas the limitation period of three years had elapsed on March 10, 2000. The effect of the same would be that the vesting would also lapse, since the genesis and the very root of the vesting is the notice under Section 4(1a) of the 1948 Act. Thus, if such notice itself lapses, the consequential vesting cannot survive.

- 32.** Thus, as on March 10, 2000, the vesting by virtue of Section 4(1a) read with Section 4 (2) of the 1948 Act, stood lapsed.
- 33.** The 1894 Act, as amended by the 1997 West Bengal Amendment, however, gives a fresh lease of life to the vesting from the issuance of a notice under Section 9 (3A) or 3(B) of the 1894 Act. However, in a case where the initial vesting by notice under Section 4 (1a) already stood lapsed by virtue of Section 7A, the position of law would be that although the vesting under Section 4(1a) of the 1948 Act did not survive by operation of Section 7A of the said Act, a fresh vesting proceeding was initiated by Section 9(3B). Since the said sub-section deems that the provision of Section 4, 5, 5A, 6, 7, 8 and 16 of the 1894 Act have been complied with, the issuance of a notice under Section 9 (3B) initiates a fresh vesting for all practical purposes, despite the lapse of the previous vesting under Section 4(2) of the 1948 Act.

- 34.** The second proviso to sub-section (3B) has to be looked at in the said perspective. It provides that the Collector shall make an award under Section 11 of the 1894 Act only for the purpose of payment of due compensation to the persons interested in the land but the land has, upon the Collector taking possession thereof, already vesting absolutely in the Government free from all encumbrances.
- 35.** The said proviso would be rendered a toothless and superfluous provision if it is deemed that the lapse is only for the purpose of the award and not the acquisition process as a whole. An absurdity would arise in such case, in that a person would divested of a property by dint of Section 9(3B) without payment of any compensation and there would never be any award of compensation, since the statutory time limit of two years from the possession has already lapsed by virtue of the second proviso to Section 9(3B) of the 1894 Act.
- 36.** The schemes of both the 1894 and the 1948 Acts clearly contemplate the payment of compensation by passing an award.
- 37.** Under the 1894 Act, internal safeguards are provided to the land-losers by the joint operation of Sections 4, 6, 9 and 11A. If an acquisition procedure is initiated under Section 4, the same has to be followed by the procedure under Section 5, 5A, 6, 7 and 8, 11, etc. right up to Section 16 when, upon possession being taken only after passing of the award, the land vests in the State Government. Even in a Section 9 scenario, the subsequent procedure for passing of an award and taking of possession under Section 16 has to follow chronologically, only upon which the land vests in the State.

- 38.** Even if the emergency provisions under Section 17 of the 1894 Act, conferring special power of the Collector to take possession within fifteen days from the date of the Section 9 notice, is resorted to, such possession is coupled with the mandatory provision of tendering payment of eighty per cent of the compensation for such land, as estimated by the Collector before taking such possession. Thus, payment of compensation to the land-loser is assured.
- 39.** Even under the 1948 Act, if possession is taken, an award is to be mandatorily passed within three years from the notice under Section 4(1a) of the said Act; otherwise the notice itself, along with consequential vesting would lapse by operation of Section 7A of the said Act.
- 40.** The second proviso to Section 9(3B) of the 1894 Act, thus, has to be read in the context of Section 7A and a similar meaning is required to be attributed to the statutory time limit for passing an award, which is two years under the second proviso to sub-section (3B) of Section 9 of the 1894 Act and three years under Section under Section 7A of the 1948 Act, since the chain of events, of the land vesting in the State and compensation being paid after passing an award for payment of compensation in view of depriving the land owner of his valuable property has to be complied with. Such an interpretation would also be in consonance with Article 300A of the Constitution of India, since the same protects the right to property unless specifically taken away by a statute. Although no longer a fundamental right coming under Chapter III of the Constitution, the right to property is still protected in a limited

sense that under Article 300A of the Constitution, by ensuring that if a person is deprived of his property, it has to be in terms of a validly enacted statute. Thus, a statute which deprives a land owner of his property has to be strictly construed in favour of the land owner.

41. Viewed from such perspective, the proposition laid down by the learned Single Judge in *Sabitri Devi and Ors. (supra)*¹ to the tune that the expiry of time provided in Section 7A of the 1948 Act result in the lapse in the notice under Section 4(1a) of that Act has to be accepted. The learned Single Judge, correctly in our humble opinion, held in the said judgment that the revalidation by notice under Section 9 has the effect of reviving the requisition for acquisition and, as such, it is only on the issue of the notice under sub-sections (3A) or (3B) of Section 9 of the 1894 Act which the revalidation takes effect. The requisition having ended on the effacement of the statute, the property was to be restored to the owner. It could also be treated to have ended the proceeding for acquisition where the notice under Section 4(1a) of the 1948 Act stood lapsed.

42. The Division Bench, while deciding the appeal against the said judgment, *inter alia* observed that the West Bengal Amendment of 1997 would have the effect of preventing all notices under Section 4(1a) issued after April 1, 1994 from being lapsed by giving a scope of revival by way of a notice under sub-section (3B) of Section 9 of the said Act if the award had not been passed within three years from the date of

1. *Sabitri Devi & Ors. vs. State of West Bengal & Ors. reported at 2002 (3) CHN Cal 108*

publication of the notice. The Division Bench ultimately affirmed the order of the learned Single Judge, however, in respect of the notices given prior to March 31, 1992. Thus, the said judgment might not directly come to the aid of the land losers.

- 43.** The distinction drawn between the powers of judicial review of a superior court and that of an inferior court has held in *M.M Thomas vs. State of Kerala and Anr.* reported at *AIR 2000 SC 540*, is not applicable in view of our finding that the limited scope of the present review is whether any error apparent on the face of the order under review is substantiated by the review applicant.
- 44.** Coming to the legal aspect of the case at hand, with the lapse of the notice under Section 4(1a) by operation of Section 7A of the 1948 Act, by no award being passed within three years from the date of the notice (March 11, 1997), the effect would be that the vesting consequential to the notice would also lapse and the possession taken would revert back to its status as a requisition and not possession for the purpose of acquisition as contemplated under Section 9(3B). Thus, upon such lapse, the title to the land reverts back to the land-loser, since the notice under Section 4 (1a) and, along with it, the vesting itself goes.
- 45.** Hence, for all practical purposes, when the notice under Section 9(3B) of the 1894 Act was issued on November 12, 1999 in the present case, the same stood on a similar footing as a notice under Section 9(1) of the parent 1894 Act. The second proviso to sub-section (3B) enumerates that the award would have been passed under Section 11 only for the purpose of payment of due compensation, “upon the Collector taking

possession thereof, already vested absolutely in the Government free from all encumbrances". The term "possession" in the second proviso, thus, would have to be possession for the purpose of acquisition which would in effect be a re-possession, since the prior possession for the purpose of acquisition within the contemplation of Section 4(1a) of the 1948 Act had already lapsed and the land stood divested. In the event the award is not passed within a period of two years from the date of the issuance of a notice under Section 9 (3B), the proceeding for passing award would lapse if fresh possession is not taken, in view of the expression "shall" found in the second proviso to Section 11(A) of the 1894, introduced by the West Bengal Amendment of 1997, which prefixes the passing of the award.

- 46.** The net effect of the interplay between the said provisions would, thus, be that since no fresh possession was taken after the initial requisition process did not culminate in an acquisition by operation of Section 7A of the 1948 Act, it would be deemed that, in the absence of such fresh possession, there was no vesting of the land in the State, which would translate into the second proviso to Section 9(3B) of the 1894 Act mandating that the entire proceeding for acquisition would lapse on November 11, 1999 (midnight), since the statutory period of two years from the date of the notice under Section 9(3B) of the 1894 Act that is November 12, 1999, elapsed on November 12, 2001.
- 47.** Hence, as on the date when the award was passed in the present case, that is, December 12, 2001, there was no acquisition proceeding in the eye of law, since the notice under Section 4(1a) of the 1948 Act had

lapsed, along with its consequential vesting and possession of the land for the purpose of acquisition (as opposed to requisition) while the two year limitation for passing an award even after the notice under Section 9(3B) had elapsed. As a result, by operation of Section 11A, second proviso, the acquisition proceeding would stand lapsed, since no re-possession was taken either under Section 17 of the 1894 Act or otherwise for the specific purpose of acquisition.

- 48.** It is also required to be kept in mind that with the efflux of time, the 1948 Act had already spent its force and the acquisition taken under the provisions of the said Act would , in any event, had lapsed, unless fresh possession was taken under the 1894 Act.
- 49.** The other judgments cited by the State primarily dealt with the interplay between the 1894 and the 2013 Acts and does not have any direct bearing on the present matter.
- 50.** The judgments cited by the land-losers are also on such premise primarily, apart from *Sabitri Debi's (supra)*² case.
- 51.** Thus, we are of the considered opinion that the order under review dated April 30, 2025, holding that the acquisition proceeding had lapsed and the State had to proceed under the statute governing the field at present, that is, by necessary implication, the 2013 Act, was passed within the four corners of the statutes involved.
- 52.** The error, for the purpose of coming under the purview of a review within the contemplation of Order XLVII of the Code of Civil Procedure,

2. *Sabitri Devi & Ors. vs. State of West Bengal & Ors. reported at 2002 (3) CHN Cal 108*

would have to be apparent on the face of it. If any second interpretation of the law is possible, a detailed argument would be required, which, although might be a plausible ground of appeal, does not come within the ambit of an “error apparent on the face of record” as envisaged in Order XLVII of the Code of Civil Procedure.

- 53.** Thus, the review applications fail.
- 54.** Accordingly, RVW No. 208 of 2025 as well as RVW No.209 of 2025 are dismissed on contest. Consequentially, the two applications, both bearing CAN 1 of 2025, filed in connection with the said applications, stand disposed of as well.
- 55.** There will be no order as to costs.
- 56.** Interim orders, if any, stand vacated.

(Sabyasachi Bhattacharyya, J.)

I agree.

(Uday Kumar, J.)