

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

03.01.2025
Ct. no. 2
M/L. Sl. No. 104
Moumita

WPA 18594 of 2024

**Sri Amitava Dutta
Vs.
The State of West Bengal & Ors.**

**Mr. Partha Pratim Roy
Mr. Samrat Chakraborty
.... For the Petitioner**

**Mr. Soumitra Bandyopadhyay, Sr. Govt. Adv.
Ms. Suchana Banerjee
.... For the State/respondent nos. 1 to 4.**

**Mr. Mrinal Kanti Mukherjee
Ms. Purnima Panda
....for the Private Respondent no. 5.**

Mr. Partha Pratim Roy, learned advocate appears for the petitioner.

Mr. Soumitra Bandyopadhyay, learned advocate appears for the state/respondent nos. 1 to 4.

Mr. Mrinal Kanti Mukherjee, learned advocate appears for the private respondent no. 5.

The petitioner submits that a plot of land which has been acquired and utilized by the National Highway Authority (NHAI) is the land of the petitioner. Though compensation has been determined but not paid. Petitioner submits that the private respondent no. 5 is not the owner of the plot in question but he claims the compensation already determined by the competent

authority as owner of the land. Claiming the rival claim of the ownership the petitioner filed a title suit being no. **76 of 2020 annexure p-4 at page 24** to the writ petition before the jurisdictional civil court. The said suit was dismissed for default and the petitioner has filed necessary application for restoration thereof being **Misc. Case No. 39 of 2022**, which is pending. The petitioner has also submitted its objection under **Sub-Section 4 to Section 3 (H)** of the **National Highways Act, 1956** before the respondent no. 4 being the jurisdictional competent authority within the meaning of said **1956 Act**. The said application is pending.

In view of the above, Mr. Roy submits until this application is disposed of finally with a reasoned order by the respondent no. 4, no compensation can be disbursed in favour of anybody.

Mr. Mukherjee, learned counsel appearing for the private respondent no. 5 has denied and disputed the submissions made on behalf of the petitioner. He submits that the title suit stands dismissed and not yet restored. He submits that his client is the lawful owner of the petitioner and is eligible to receive the entire compensation on account of acquisition of the land in question. He further submits, on instruction from his client that, the application filed by the petitioner under **Sub-Section 4 to Section 3 (H)** of **1956** has already been

disposed of by the respondent no. 4, but he has not been able to produce any evidence to that effect.

Considering the rival contentions of the parties and upon perusal the materials on record, if any, application is found to be pending on record before the respondent no. 4 filed by the petitioner under **Sub-Section 4 to Section 3 (H) of 1956 Act**, the respondent no. 4 shall dispose of the same after granting an opportunity of hearing to the parties thereto by passing a reasoned order positively within a period of **eight weeks** from the date of communication of this order.

The reasoned order then shall be communicated to the parties to the said application within a period of **two weeks** from the date of the said reasoned order to be passed.

Depending upon the fate of the said reasoned order, the jurisdictional competent authority, within the meaning of the said **1956 Act**, shall take necessary and consequential steps strictly in accordance with law as expeditiously as possible.

It is made clear that this court has not gone into the rival questions on titles of the petitioner and the respondent no. 5 and the respondent no. 4 shall be free to decide the issue pending before it, if any, independently in accordance with law and without being influenced by observation, if any, made by this court.

It is made clear that this order shall not create any right or equity in favour of the petitioner and in favour of the respondent no. 5.

Since affidavits are not called for, the allegations made in this writ petition are deemed not to have been admitted by the respondents.

With the above observations and directions, this writ petition, **WPA 18594 of 2024** stands ***disposed of***, without any order as to costs.

Photostat certified copy of this order, if applied for, be furnished expeditiously.

(Aniruddha Roy, J.)