

S/L 6
19.05.2025
Court No.2
SD

CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
CIVIL REVISIONAL JURISDICTION

CO 65 of 2025

Bhairablal Pradhan (since deceased), represented by Smt.
Shanta Pradhan & Ors.

Vs.

The State of West Bengal

Mr. Bhanu Prakash Subba
Mr. Bikash Singha

...for the Petitioner.

Mr. Sudipto Kumar Majumder, Ld. DSGI
Mr. Ajoy Singhania

...for the Union of India.

The Central Government, though, is not a party to this revisional application, but its presence is necessary for the effective disposal of it, this Court, therefore, has directed Mr. Sudipto Kumar Majumder, learned DSGI, and Mr. Ajoy Singhania, an advocate in the Union of India roll, to appear in this matter, they have accordingly appeared; their appointments be regularized.

The instant application under Article 227 of the Constitution of India is directed against Order No.247 dated December 6, 2023 passed by the 1st Court of learned Additional District Judge, Darjeeling in Misc. Judicial Case No.37 of 1973.

The predecessor-in-interest of the petitioners, Bhairablal Pradhan (since deceased) was the owner of the 4.32 acres of land comprised in C.S. Plot No.7 corresponding to Khatian No.13, Mouza – Khoklong, P.S. – Siliguri, District-Darjeeling.

The said land was requisitioned under Section 29 of the Defense of India Act, 1962 and ultimately was acquired under Section 7 of the Requisitioning and Acquisition of Immovable Property Act, 1952 (hereinafter referred to as '**the said Act of 1952**' in short).

The Land Acquisition Collector, Darjeeling had determined the compensation under Section 8 of the said Act of 1952.

The petitioners were not satisfied with the said award and had applied before the Collector under Section 18 of the Land Acquisition Act, 1894 (hereinafter referred to as '**the said Act of 1894**' in short) for reference to the Court. The Collector had sent the said application to the learned District Judge,

Darjeeling which was registered as Misc. Judicial Case No.37 of 1973. The said Misc. Case was ultimately transferred to the 1st Court of learned Additional District Judge, Darjeeling for disposal.

The learned Additional District Judge by the order impugned has dismissed the said application for want of jurisdiction and has directed that the copy of the order along with the application be transferred to the Collector.

Heard Mr. Subba, learned advocate for the petitioners and Mr. Majumdar for the Union of India.

It appears that Section 8 of the said Act of 1952 prescribes the principles and methods of determining compensation, if no agreement can be reached on the determination of compensation, in terms of sub-section (1)(b) thereof, the Central Government is required to appoint an arbitrator, a person who is, or has been, or is qualified for appointment as a Judge of High Court.

In terms of Rule 9(6) of the Requisitioning and Acquisition of Immovable Property Rules, 1953, (hereinafter referred to as '**the said Rules of 1953**' in short) if any person does not accept the offer of compensation, he is required to communicate to the competent authority in writing regarding his such non-acceptance, and thereupon the competent authority shall as soon as maybe submit to the Central Government a report setting forth the full facts of the case, particularly as regards the nature and extent of disagreement between himself on one hand and the said person on the other hand with all connected papers.

Therefore, the filing of an application under Section 18 of the said Act of 1894 is a misconceived action. The petitioner should have taken steps in terms of Rule 9 (6) of the said Rules of 1953.

The learned additional District Judge has rightly dismissed the application and sent the papers to the Collector.

The petitioners are granted liberty to take steps in terms of Rule 9(6) of the said Rules of 1953, if such steps are taken, the Collector is directed to take forward steps as required under the aforesaid Rules and thereupon the central government shall take steps for the appointment of an arbitrator in terms of section 8(1)(b) of the said Act of 1952.

The case is pending since 1973, the records be sent to the Collector immediately for taking appropriate steps.

CO 65 of 2025 is disposed of with the above terms without any order as to costs.

Parties to act on the server copy of this order duly downloaded from the official *website* of this Court.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties, subject to compliance of all requisite formalities.

(Biswajit Basu, J.)