

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

The Hon'ble **JUSTICE SUVRA GHOSH**

WPA 1942 of 2023

With

CAN 2 of 2025

With

CAN 3 of 2025

Abusalam Sekh

v/s.

The State of West Bengal & Ors.

For the Petitioner:	Mr. Prosenjit Mukherjee Ms. Manisa Mandal Ms. Babita Pramanik
For the NHAI :	Mr. Subrata Bhattacharjya Mr. Sourav Roy
For the State:	Mr. Santanu Kr. Mitra Mr. Amartya Pal
For the Respondent No. 5:	Ms. Pampa Dey Dhabal Ms. Sangita Barman

Hearing concluded on: 24.04.2026

Judgment delivered on: 06.05.2026

SUVRA GHOSH, J. :-

1. The prayers in the writ petition are as hereunder:-

“(b) Issue a writ in the nature of Mandamus thereby quash and/or set aside the impugned notice of eviction issued by the said National Highway Respondent authority concerned on 13.01.2023;

- (c) Issue a writ of and/or in the nature of Prohibition thereby prohibiting the Respondent authorities from taking any steps regarding the eviction/removal of your petitioner without following the procedure so established by law;
- (d) Issue a writ commanding the respondents and each of them or their instrumentalities to take appropriate steps in accordance with law for disbursing the adequate and fair compensation for acquisition of land along with commercial structure over the said plots of land having Plot No. 2575 and 2576 and Mouja Golgram, Police Station Galsi, Dist. Purba Bardhaman within a stipulated time period;”
2. The petitioner claims to be the absolute owner of plot no. 2576 in mouza- Galigram, J.L. No. 54, L.R. khatian no. 2452, P.S:- Galsi, District:- Purba Bardhaman measuring about 0.03 decimals by virtue of purchase from one Dilraj Sekh by deed executed on 25th November, 2020.
 3. Learned counsel for the petitioner has submitted that on 26th June, 2020 the National Highways Authority of India, (hereinafter referred to as the NHAI) issued a notification under Section 3A (1) of The National Highways Act, 1956 declaring its intention to acquire certain plots of land in several mouzas including the petitioner’s land in plot nos. 2575 and 2576. By an order passed on 28th January, 2021, the Block Land and Land Reforms Officer, (for short, B.L. & L.R.O.) Galsi-I declared that the plots were not vested and were owned by the petitioner following which they were recorded in his name. The said authority issued a notice to the Project Director, NHAI on 16th August, 2021 for re-survey/re-measurement of the

commercial structure in plot nos. 2575 and 2576. On 13th January, 2023 the NHAI Authority issued a letter to the petitioner requesting him to remove the structure from the acquired land in plot nos. 2575 and 2576 without granting fair and adequate compensation for such acquisition. A further notice was issued by the authority upon the petitioner on 29th August, 2024, asking him to vacate the land within fifteen days of receipt of the notice.

4. Learned counsel submits that plot no. 2575 is admittedly raiyati land of the petitioner. Though the State has claimed that plot no. 2576 has been vested under The West Bengal Estates Acquisition Act, 1953, no document has been produced in support of such vesting. The petitioner's name has been recorded as raiyat in respect of the said plot in a proceeding under Section 50 of the West Bengal Land Reforms Act. The report of the B.L. & L.R.O. also suggests that the land is raiyati land. After issuance of the notification under Section 3A of the Act of 1956, the B.L. & L.R.O. has suddenly changed the record of rights and recorded plot no. 2576 under khatian no. 1 as vested land. The NHAI Authority has no objection in granting compensation to the petitioner for both the plots and has in fact deposited the compensation amount before the State authorities who have illegally withheld the same. The petitioners seek proper and adequate compensation for acquisition of both the plots and cancellation of the notices issued by the NHAI.
5. Referring to a notification issued under Section 4(1) of the West Bengal Estates Acquisition Act, 1953, learned counsel for the State has submitted that plot no. 2576 has been vested in the State. Land

acquisition proceeding was initiated under the Act of 1956 wherein the said plot was reported as raiyati by the B.L. & L.R.O., Galsi-I, Notification under section 3A and declaration under section 3D of the Act were issued accordingly. During preparation of the award, inconsistency in the share and area of the plot was detected by the Special Land Acquisition Officer, Purba Bardhaman and the matter was referred to the B.L. & L.R.O. for correction of the inconsistency. In response thereto, the B.L. & L.R.O. sent a corrected record of rights in respect of plot no. 2576 indicating that the plot was vested in the State and recorded in khatian no. 1. It was vested on 15th April, 1955 vide notification dated 16th August, 1954 published in the Calcutta Gazette on 11th November, 1954. By virtue of such vesting, the entire plot measuring an area of 24 decimals belongs to the State free from all encumbrances. The revisional settlement record reveals that the names of four persons are recorded in column 13 as “Atroshotter biboron O dokholkar” till 31st Chaitra, 1361 B.S. The superior title of the State is also recorded. After expiry of the said period, the land stood automatically vested in the State under Section 4(2) of the 1953 Act. Column no. 15 of the R.S. khatian records the status as “Malik” whereas the C.S. khatian records the tenure holder as a “lakherajdar” which means revenue free proprietor with intermediary interest. Such interest stood abolished and vested in the State of West Bengal upon promulgation of the Act of 1953.

6. Despite having knowledge of such vesting, the petitioner filed an application before the B.L. & L.R.O. vide misc. case no. 1841 of 2021 for correction of record of rights which was rejected by a reasoned order

passed on 13th April, 2022. No appeal was preferred by the petitioner against the said order and the order has attained finality. The plot in question was purchased by the petitioner post vesting and he is not entitled to compensation.

7. Pursuant to an order passed by this Court on 19th February, 2024 the B.L. & L.R.O. submitted a clarification report in respect of plot no. 2576 vide memo dated 13th March, 2024 and thereafter, the competent authority under the 1956 Act being the District Magistrate and Collector, Purba Bardhaman, issued a corrigendum to the Project Director NHAI on 18th March, 2024. The Project Director intimated that there was no provision under Section 3A of the Act for correction after publication of declaration under Section 3D of the Act. The issue was deliberated upon by the Additional District Magistrate, L.A. and the Project Director NHAI and it was opined that Section 21 of the General Clauses Act, 1897 may be invoked for correction of notifications issued under a Central Act.
8. Award under Section 3G of the Act was declared in respect of plot no. 2575 being raiyati land and payment notice was issued. The petitioner sought re-survey and upon joint inspection held on 18th August, 2022, valuation of the structure on the said plot was assessed. The petitioner has no legally enforceable claim in respect of plot no. 2576 which is vested land and is being utilised for development of infrastructure and road as well as for socio-economic benefits of the public at large. The State has sought dismissal of the writ petition.
9. Learned counsel for the NHAI authority has submitted that the issue of payment of compensation for acquisition of land is within the domain of

the Special Land Acquisition Officer who initially intimated that the land was raiyati land. Accordingly, declaration under Section 3D of the Act was published. Subsequently, the State authority informed that the land was vested land according to their records. The NHAI has sought a direction upon the 4th respondent to deposit the amount of compensation before the Court and for completion and execution of the work. Learned counsel has submitted that the NHAI has already disbursed the compensation to the 3rd respondent for handing over possession of the land to the authority. The authority is suffering for non completion of the project.

10. I have considered the rival contention of the parties and material on record.

11. It is not in dispute that plot no. 2575 is raiyati land and compensation in respect of the same has been assessed by the authority. The dispute between the parties is with regard to plot no. 2576, the petitioner claiming right, title and interest in respect of the same and the respondents urging that the said plot is vested in the State under Section 4 of the West Bengal Estates Acquisition Act, 1953. The petitioner purchased the plot by virtue of a registered deed dated 25th November, 2020 and applied for mutation of his name in respect of the same. His name was recorded in respect of the said plot by an order passed by the Prescribed Authority under Section 50 of the West Bengal Land Reforms Act, 1955 with an observation that the land was not vested in the State and the petitioner was in possession of the same. Notification under Section 3A (1) of the National Highways Act was issued on 26th June, 2020 wherein plot no. 2576 was included as private Sali land. Pursuant to a notice issued by the

Project Director, NHAI for re-survey/re-measurement of the commercial structure in both the plots being nos. 2575 and 2576, the B.L. & L.R.O. sent a corrected record of rights in respect of plot no. 2576 intimating that the plot was vested in the State and recorded in khatian no. 1. The petitioner sought correction of the said record of rights under Section 50 of the 1955 Act before the Prescribed Authority and Revenue Officer. His prayer was turned down by an order passed on 13th April, 2022 and liberty was granted to prefer an appeal against the said order before the appropriate authority. No appeal was preferred by the petitioner. The record of rights indicating the plot to be vested land under khatian no. 1 is in place till date.

12. By a notification issued on 16th August, 1954 published in the Calcutta Gazette on 11th November, 1954 under Section 4(1) of the Act of 1953, all estates and the rights of every intermediary in each such estate situated in the district of Bardhaman vested in the State free from all encumbrances on and from 15th April, 1955. The record of rights demonstrates the names of three occupiers till 31st Chaitra, 1361 B.S. The petitioner purchased the plot on 25th November, 2020 and is therefore a post-vesting purchaser. There is nothing on record to suggest that the intermediary in plot no. 2576 took steps for retaining the said plot under Section 6 of the 1953 Act.

13. It is trite law that a person who purchases land subsequent to a notification issued under Section 4(1) of the Act of 1953 is not competent to challenge the validity of the acquisition proceedings on any ground whatsoever since the sale deed executed in his favour does not confer

upon him any title. Such post-vesting alienation of the property does not bind the State or the beneficiary since the post-vesting purchaser does so at his peril and has no authority to challenge the validity of the acquisition proceedings on any ground whatsoever. He can at best claim compensation on the basis of his vendor's title. The steps taken by the vendor either for retaining the land or for compensation have not found place within the four corners of the record.

14. It is a fact that the petitioner's name was initially recorded as raiyat in respect of the plot on the basis of which the plot was included in the notification issued by the National Highways Authority under Section 3A of the 1956 Act and declaration of acquisition under Section 3D of the Act. However, the record of rights was subsequently corrected and the plot recorded under khatian no. 1 as vested land. The petitioner chose not to prefer any appeal against the order turning down his prayer for correction of the records.
15. On intimating the Project Director of NHAI of such fact and requesting him to incorporate necessary correction in the notification issued under Section 3A, the Project Director, NHAI informed that there was no such provision or law for correction of the notification after due publication under Section 3D of the 1956 Act.
16. True, the 1956 Act does not provide for correction of notification issued under Section 3A of the Act. Such power is provided under Section 21 of the General Clauses Act, 1897. Section 21 of the Act is reproduced herein below:-

“Power to issue, to include power to add to, amend, vary or rescind notifications, orders, rules or bye-laws.—Where, by any Central Act or Regulations a power to issue notifications, orders, rules or bye-laws is conferred, then that power includes a power, exercisable in the like manner and subject to the like sanction and conditions (if any), to add to, amend, vary or rescind any notifications, orders, rules or bye-laws so issued.”

17. The NHAI is at liberty to take recourse to the said provision of law, if so advised.
18. It is evident that plot no. 2576 has vested in the State under Section 4(1) of the 1953 Act. The petitioner being a post-vesting purchaser is not entitled to challenge the vesting proceeding in any manner whatsoever. In the event the petitioner claims to have acquired an independent tenancy right under the State of West Bengal after the date of vesting, he is at liberty to approach the appropriate civil forum for declaration of such right. Such issue is a disputed question of fact which cannot be considered by this Court in exercising jurisdiction under Article 226 of the Constitution of India.
19. In the said backdrop, the prayers of the petitioner seeking quashing of the notices issued by the National Highways Authority and payment of fair and adequate compensation cannot be entertained.
20. Accordingly, the writ petition being WPA 1942 of 2023 is dismissed.
21. The connected applications are accordingly disposed of.

22. There shall however be no order as to costs.

23. Urgent certified website copies of this judgment, if applied for, be supplied to the parties expeditiously on compliance with the usual formalities.

(Suvra Ghosh, J)