

HIGH COURT AT CALCUTTA

Constitutional Writ Jurisdiction
Appellate Side

Present:

The Hon'ble Justice Hiranmay Bhattacharyya

WPA 2389 of 2026

Sadhana Saha (Modak)
Versus
The State of West Bengal & Ors.

For the petitioner : Ms. Kakali Samajpaty
Ms. Sangita Jangra
Ms. Payel Neogi
Ms. Sabina Khatun

For the State-respondent : Sk. Md. Galib
Mr. Tamal Taru Panda

For the respondent nos. 6 & 7 : Mr. Samik Sarkar

Heard on : 24.02.2026

Judgement on : 24.02.2026

Hiranmay Bhattacharyya, J.:

1. The petitioner has challenged the order dated August 28, 2020 passed by the competent authority under the National Highways Act, 1956 in this writ petition.

2. The petitioner claims to be the recorded owner of 2 decimals of land in LR Plot No. 680 within Mouza – Khidirpur, JL No. 48 under Nakashipara Police Station by way of inheritance from her father Late Nandalal Modak. The said plot was acquired for the purpose of widening of National Highway No. 32.
3. The petitioner states that an award was declared in favour of the petitioner under award serial no. 257 for acquisition of plot no. 680. The petitioner states that she was anxiously waiting for the compensation to be paid to her but she suddenly came to know from the office of the Block Development Officer, Nakashipara that the name of the petitioner along with her co-sharers in respect of plot no. 680 have been deleted and cancelled for inserting the name of one Saraswati Das. Petitioner alleges that such correction of Record of Rights was done illegally, arbitrarily and behind the back of the petitioner. Immediately after coming to know of such fact, petitioner filed a suit being TS No. 75 of 2015 before the learned Civil Judge (Jr. Division), 2nd Court at Krishnagar, Nadia which was dismissed by a judgment and decree dated April 5, 2019 and challenging the judgment and decree passed in the said suit, petitioner preferred an appeal being Title Appeal No. 54 of 2019 which also stood dismissed by a judgment and decree dated August 28, 2023 thereby affirming the judgment and decree passed by the learned trial Judge.

4. A case being no. 13/MISC/KHIDIRPUR/2019 was initiated on a petition being filed by Tapas Kumar Das on April 10, 2019 praying for payment of compensation in their favour which had been declared in favour of Shibani Modak and others in respect of acquisition of the land in plot no. 680. Upon a contested hearing, the said misc. case was disposed of by the order dated August 28, 2020.
5. Learned advocate appearing for the petitioner submits that initially the award in respect of the aforesaid plot was declared in the name of the petitioner but subsequently without serving any notice upon the petitioner, the award declared in the name of the petitioner was cancelled and subsequently the award has been declared in favour of the private-respondents. Learned advocate appearing for the petitioner further submits that though the learned Judge of the first appellate Court dismissed the said appeal but was, however, pleased to observe that the competent authority is obliged to refer the dispute to the decision of the principal civil court of original jurisdiction under Section 3H(4) of the National Highway Act, 1956.
6. Learned advocate appearing for the private-respondents submits that the petitioner approached the civil court praying for a decree for permanent injunction restraining the private-respondents from accepting the award money. He submits that the petitioner failed to

obtain any favourable order from the civil court and, therefore, the petitioner is not entitled to the award money.

7. Learned advocate appearing for the private-respondents further submits that pursuant to the impugned order, the compensation money has been duly paid to the private-respondents. He further submits that the competent authority after considering the relevant record of rights found that the private-respondents are entitled to the award money and, therefore, directed the award money to be paid to the private-respondents.
8. Mr. Galib, learned Senior Government Advocate appearing for the State submits that the competent authority after considering the materials on record and after affording opportunity of hearing to the petitioner and the private-respondents, have passed the order impugned. He submits that there is no infirmity in the decision making process warranting interference under Article 226 of the Constitution of India.
9. Heard the learned advocates for the respective parties and perused the materials placed.
10. The petitioner approached the learned Civil Judge (Jr. Division), 2nd Court at Krishnagar, Nadia by filing TS No. 75 of 2015 praying for a decree for permanent injunction restraining the private-respondents from accepting the award money and further restraining the respondent authorities from disbursing the award

money to the private-respondents. The petitioner also prayed for a decree declaring that the deletion of the names of the petitioner by the competent authority in respect of the said plot, is illegal, arbitrary and without jurisdiction whatsoever.

11. Record reveals that TS 75 of 2015 stood dismissed by a judgment and decree dated April 5, 2019. Being aggrieved by the judgment and decree passed by the learned trial judge, the petitioner preferred an appeal being Title Appeal No. 54 of 2019 and the learned Judge of the first appellate Court dismissed the said appeal by a judgment and decree dated July 28, 2023. However, the learned Judge of the first appellate court observed that Section 3H(4) of the National Highway Act, 1956 provides that if any dispute arises as to the apportionment of the amount or any part thereof or to any person to whom the same or any part thereof is payable, the competent authority shall refer the dispute to the decision of the principal civil court of original jurisdiction within the limits of whose jurisdiction the land is situated.

12. After noting the provisions laid down under the 1956 Act, the learned Judge of the first appellate court observed that there is no scope for the private party to come directly before the civil court for getting adjudication in context about deposit and payment of the amount enumerated under Section 3G and 3H of the Act. The said judgment and decree attained finality.

13. Insofar as the prayer of the petitioner for deletion of name of the petitioners in the record of rights is concerned, the learned first appellate court took note of the provisions laid down under Section 51C(2) of the West Bengal Land Reforms Act, 1955 and observed that the civil court cannot entertain any suit or application concerning any land if it relates to alternation of any entry in the record of rights finally published, revised, corrected or modified under any of the provisions of the chapter.
14. Section 3H(4) of the National Highway Act, 1956 enables a party to raise a dispute as to whether any person is entitled to the compensation amount or not.
15. In the case on hand the petitioner alleges that the petitioners are only entitled to the compensation amount and the private-respondents are not entitled to the same. Thus, the dispute sought to be canvassed by the petitioner in this writ petition falls squarely within the scope of Section 3H(4) of the National Highway Act, 1956. No material has been produced before this Court at this stage to show that the petitioner ever approached the competent authority praying for referring the dispute for the decision of the Principal Civil Judge of original jurisdiction within the limits of whose jurisdiction the land is situated.
16. After reading the order impugned this Court finds that the competent authority took note of the recording in the record of

rights and the gift deed being no. I-9500 dated December 1, 2008 allowed the prayer of Tapas Kumar Das and Naba Kumar Das and the compensation for 0.0070 acres of land against awardee nos. 255 to 259 of Mouza 48-Krishnanagar vide LA Case No. 17/LA/NHAI/Naka/10-11 was declared in the name of Tapas Kumar Das and Naba Kumar Das with equal share cancelling the name of Shibani Modak and others who are the legal heirs of the deceased Nandalal Modak. By the said order the compensation amount was directed to be disbursed against awardee nos. 255 to 259 dividing the compensation amount against each of the awardee in two equal parts.

17. It is well-settled that judicial review is not an appeal against a decision of an authority but the same is a review of the decision making process. On a petition being filed by the private-respondents praying for payment of the compensation amount in their favour, a misc. case was registered by the competent authority and after affording opportunity of hearing to the petitioner, the private-respondents and upon considering the materials placed by the respective parties, the impugned order was passed assigning cogent reasons in support of the ultimate conclusion. To the mind of this Court there is no infirmity in the decision making process warranting interference under Article 226 of the Constitution of India.

18. For all the reasons as aforesaid, this writ petition stands dismissed.

19. There shall be no order as to costs.

20. It is, however, made clear that dismissal of this writ petition shall not preclude the petitioner from taking steps in accordance with law if she is otherwise entitled to.

(Hiranmay Bhattacharyya, J.)