

HIGH COURT AT CALCUTTA

Constitutional Writ Jurisdiction Appellate Side

Present:

The Hon'ble Justice Hiranmay Bhattacharyya

WPA 28855 of 2025

Sri Subrata Biswas

Versus

State of West Bengal & Ors.

For the petitioners	:	Mr. Partha Pratim Roy Ms. Poulami Chakraborty
For the State-respondent	:	Mr. Rabindranath Pal Mr. Sasthi Charan Dhara
Heard on	:	06.01.2026
Judgement on	:	06.01.2026

Hiranmay Bhattacharyya, J.:

1. The petitioner has challenged the orders being nos. 3 and 4 both dated June 25, 2025 passed by the Additional District Magistrate (LA), Nadia in this writ petition.
2. The property of the petitioner being RS Plot no. 312 corresponding to LR plot no. 103, JL No. 53, within Mouza – Simultala, under Police Station – Kotwali in the district of Nadia was acquired vide

LA Case No. 117/PHE/0910 under the provisions of the Land Acquisition Act, 1894 ('the 1894 Act', for short). The notice under Section 12(2) of the 1894 Act dated August 22, 2013 was issued and immediately upon receipt of such notice the petitioner by a letter dated August 29, 2013, raised objection against adequacy of the compensation amount determined under the Award. The said written objection was received by the office of the Land Acquisition Collector, Nadia on August 29, 2013. Thereafter a notice dated January 8, 2014 was issued to the petitioner requesting the petitioner to collect the compensation amount from the office of the Special Land Acquisition Officer, Krishnanagar, Nadia within February 15, 2014 failing which the amount will be deposited in the Treasury. The petitioner thereafter received the said amount on March 5, 2014. Since the matter was not referred by the Collector for determination by the Court in terms of Section 18 of the 1894 Act, petitioner submitted a representation dated July 20, 2020 before the Executive Engineer, Public Health Engineering Directorate, Nadia Sub-Division and thereafter demanded justice from the Collector, Nadia vide learned advocate's letter dated May 5, 2025 requesting such authority to take necessary steps.

3. Mr. Roy learned advocate appearing for the petitioner submits that the written objection submitted by the petitioner against the adequacy of the compensation amount which was received by the office of the Collector, Nadia on August 29, 2013, ought to have

been treated as a prayer for making reference under Section 18 of the 1894 Act. In support of such contention, Mr. Roy places reliance upon a decision of the Hon'ble Division Bench in the case of ***Ramesh Chandra Dhara & Ors. –Vs.- State of West Bengal & Ors.***, reported at **(2014) 1 CHN 716**. Mr. Roy further submits that the petitioner received the compensation amount under protest and receipt of the compensation amount under protest is itself sufficient to refer the matter for determination by the Court under Section 18 of the 1894 Act. In support of such contention Mr. Roy places reliance upon a decision of the Hon'ble Madras High Court in the case of *Narayanaswamy & Anr. –Vs.- The Special Tahsildar for Land Acquisition, Adi Dravidar Welfare, Tiruppur & Anr.*, reported at 1994 (1) MLJ 393.

4. Mr. Roy, learned advocate appearing for the petitioner places reliance upon a decision of the Hon'ble Division Bench in the case of *Kusumlata Khandelwal & Ors. –Vs.- Land Acquisition Collector & Ors.*, reported at AIR 1974 Cal 396 in support of his contention that the subject-matter of objection against the determination of compensation amount is itself sufficient to make a reference under Section 18 of the 1894 Act.
5. Per contra, learned advocate appearing for the State submits that in the written objection dated August 29, 2013 the petitioner has only prayed for redetermination of the compensation amount. He

further submits that no specific prayer for making a reference under Section 18 of the 1894 Act was made. He submits that acceptance of the compensation amount would amount to waiver of his right to make a reference under Section 18 of the 1894 Act.

6. Heard the learned advocates for the parties and perused the materials placed.
7. The Award was passed on August 22, 2013 under the 1894 Act, i.e., prior to coming into force of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 ('the 2013 Act', for short), which came into force with effect from January 1, 2014. The notice under Section 12(2) of the 1894 Act was issued on August 22, 2013 and the compensation was disbursed on February 15, 2014. Since the Award was made prior to January 1, 2014, i.e., prior to commencement of the 2013 Act, the entire proceeding shall be governed under the 1894 Act and not under the 2013 Act. (see *Indore Development Authority –Vs.- Manoharlal & Ors.*, reported at (2020) 8 SCC 129)
8. The petitioner submitted a letter dated August 29, 2013 disputing the adequacy of compensation. The said written objection was filed within a week from the date of issuance of the notice under Section 12(2) of the 1894 Act. The Additional District Magistrate (LA), Nadia in the order being no. 3 dated June 25, 2025 after observing

that the petitioner received the Award compensation under protest on February 15, 2014 recorded that no formal application for reference was filed within the stipulated period of limitation and the subsequent representations made by the petitioner in 2020 and 2025 is well beyond the period of limitation for seeking a reference under Section 18(2) of the 1894 Act. By the order being no. 4 dated June 25, 2025, the District Magistrate (LA), Nadia rejected the claim of the petitioner for enhancement of compensation and interest upon holding that such claim is barred by limitation under Section 18(2) of the 1894 Act as it fails to satisfy the mandatory requirement for a valid reference application.

9. The question that arises for consideration is whether the written objection of the petitioner by letter dated August 29, 2013 can be treated to be an application seeking reference under Section 18 of the 1894 Act.
10. After going through the said letter dated August 29, 2013 this Court finds that the petitioner after specifically stating that he had right, title, interest and possession in respect of the property in question also stated about the classification of the said land and that the compensation amount was determined at Rs. 2,09,757/- for the scheduled land whereas the market value of such value is more than Rs. 50,000/- per decimal. The petitioner also annexed a

copy of the sale deed no. 5777 of 2012 in support of his claim for the market value of the property in question.

11. After going through the said letter dated August 29, 2013 styled as written objection, this Court is of the considered view that the petitioner raised specific objection against determination of the compensation amount by the said Award.

12. In order to decide as to whether the letter dated August 29, 2013 can be construed to be an application seeking reference under Section 18 of the 1894 Act, it would be beneficial to recapitulate the provisions of Section 18 of the 1894 Act for which the same is extracted hereinafter:

“18. Reference to Court. - (1) Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court, whether his objection be to the measurement of the land, the amount of the compensation, the person to whom it is payable, or the apportionment of the compensation among the persons interested.

(2) The application shall state the grounds on which objection to the award is taken: Provided that every such application shall be made-

(a) if the person making it was present or represented before the Collector at the time when

he made his award, within six weeks from the date of the Collector's award;

(b) in other cases, within six weeks of the receipt of the notice from the Collector under section 12, sub-section (2), or within six months from the date of the Collector's award, whichever period shall first expire."

13. From a bare reading of the said provision this Court is of the considered view that the Collector is obliged to make reference for determination of the Court in case a person interested has not accepted the Award and by a written application to the Collector seeks the matter to be referred by the Collector for the determination of the Court and such objection may relate either to the measurement of land, the amount of compensation, the person to whom it is payable, or the apportionment of the compensation among the person interested.
14. After going through the letter dated August 29, 2013, it appears to this Court that the petitioner raised specific grounds of objection with regard to the amount of compensation determined by the said Award.
15. The Hon'ble Division Bench in the case of **Ramesh Chandra Dhara (supra)** held that even if there was no specific prayer for making a reference but there was a challenge to the Award, the same would satisfy the condition precedent for a valid reference.

The Hon'ble Division Bench further held that a dispute challenging the legality of the Award is sufficient. The Hon'ble Division Bench held thus:

“.... We have considered the application submitted by the writ petitioners. Although there was no specific prayer for making a reference, but there was a challenge to the award, inter alia, on the allegation that the award was passed without any basis. Conditions precedent to a valid reference is that any person interested, who having not accepted the award, desires to have an adjudication of the claim by the Court, should, within the period of limitation prescribed in the proviso to Section 18 of the said Act ask for a reference. There is no prescribed form for asking for a reference. A dispute challenging the legality of the award is sufficient.

We are of the opinion, considering the petition submitted by the writ petitioners in the office of the Collector, that the person interested, in substance, challenges the award and, thus, it should be construed for ends of justice. A prayer for valid reference without such representation was made and, thus, it should be construed for ends of justice. A prayer for valid reference without such representation was made within the period of limitation.

The Supreme Court of India in the case of A. Viswanatha Pillai and others Versus Special Tahsildar for Land Acquisition No. IV and others

reported in AIR 1991 SC 1966 noted that undoubtedly there was no express averment in the reference application under Section 18 of the said Act that the referring claimant was seeking a reference on his behalf and on behalf of his three brothers, but held, inter alia, that it was surprising that State having acquired the property of a citizen would take technical objections regarding the entitlement of the claim. Although the Supreme Court of India recognized that the State certainly has right and is entitled to resist claim for enhancement and lead evidence in rebuttal to prove the prevailing price as on the date of notification and ask the court to determine the correct market value of the lands acquired compulsorily, but as regards the persons' entitlement to receive compensation, it has no role to play."

16. In *Narayanaswamy & Anr. (supra)* it was held that the written endorsement of protest at the time of receipt of the compensation amount should be construed as a demand for reference and that should suffice the purpose of Section 18(1) of the 1894 Act.
17. It is well-settled that there is no prescribed form for seeking a reference under Section 18 of the 1894 Act and a challenge to the legality of the Award is sufficient for seeking reference under Section 18 of the 1894 Act.
18. By applying the proposition of law laid down in the aforesaid decisions, this Court is of the considered view that the letter dated

August 29, 2013 satisfies the conditions precedent for seeking a valid reference and the same satisfies all the tests laid down under Section 18 of the 1894 Act.

19. That apart, it is not in dispute that the petitioner also received the compensation amount determined by the Award under protest, which would imply that the petitioner is disputing the adequacy of the compensation amount. Acceptance of compensation amount under protest would also satisfy the condition precedent for making a reference under Section 18.

20. The proviso to sub-Section (2) of Section 18 of the 1894 Act under clauses (a) and (b) prescribes the time limit within which an application seeking reference under Section 18 of the 1894 Act should be made. This Court has already observed that the letter styled as written objection challenging the adequacy of the compensation was submitted before the Collector within a week from the date of issuance of the notice under Section 18(2) of the 1894 Act. This Court, therefore, holds that the letter raising objection against the award was filed within the time limit stipulated in proviso to sub-Section (2) of Section 18 of the 1894 Act.

21. Since the reference under Section 18 of the 1894 Act by way of letter dated August 29, 2013 was submitted within the stipulated time limit, this Court holds that there was inaction on the part of

the Collector in not making a reference for the determination of the Court with regard to the objections raised in the said letter dated August 29, 2013.

22. The Hon'ble Supreme Court in *A. Viswanatha Pillai & Ors. –Vs.- Special Tahsildar for Land Acquisition No. IV and Ors.*, reported at AIR 1991 SC 1966, after noting that in the facts of that case that there was no express averment in the reference application under Section 18, i.e., seeking a reference on his behalf and on behalf of his three brothers, observed that it is surprising that the State having acquired the property of a citizen would take technical objections regarding the entitlement of the claim. The Hon'ble Supreme Court further observed that the State certainly has a right and entitled to resist the claim for enhancement and lead evidence in rebuttal to prove the prevailing price as on the date of notification and ask the Court to determine the correct market value of the lands acquired compulsorily under the Act and it is for the claimants inter se to lay the claim for compensation and the Court would examine and award the compensation to the rightful person.

23. To the mind of this Court the prayer for reference under Section 18 could not have been rejected on technical grounds.

24. For the aforesaid reasons this Court holds that the orders impugned in this writ petition suffers from infirmity and the same

are liable to be satisfied and quashed and are accordingly set aside and quashed.

25. The writ petition stands allowed. The Collector under Act I of 1894, Nadia, being the respondent no. 2, is directed to make a reference under Section 18 of the 1894 Act within a period of six weeks from the date of receipt of a server copy of this order.

26. There shall be, however, no order as to costs.

27. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of requisite formalities.

(Hiranmay Bhattacharyya, J.)