

Ct. 5 05.03.2026
JPD
Item No.23 Alope

In The High Court At Calcutta
In The Circuit Bench at Jalpaiguri
Appellate Side

WPA 2293 of 2025

Fagilathun Bibi @ Fagilatun Nechha & Ors.
Vs.
The State of West Bengal & Ors.

Mr. Bapi Sarkar
Mr. Roumyadip Saha
Mr. Prabhat Singha
..for the petitioners

Ms. Supriya Singh
Ms. Susmita Ghosh
... for the respondent/NHAI

1. The writ application has been preferred praying for direction to declare that all mutations or changes in entitlement effected after Section 3A Notification dated 09.05.2017 (S.O. 1479 (E) without prior approval of the Central Government as ultra vires, in gross violation of Section 3J of the National Highways Act, 1956 read with Section 26 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, without jurisdiction, and wholly invalid, void ab initio and non-est for the purpose of determining or claiming compensation under the said Acts and direct the respondent nos. 2 and 3 to determine and disburse the adequate and fair amount of compensation to the petitioners

in lieu of acquisition of several plots of land at Mouja-Bhutanirghat under Police Station-Falakata, District-Alipurduar.

2. The petitioner has further prayed for setting aside the order dated 24.06.2025 passed by the respondent no. 3 and for quashing all such alteration in the record-of-rights effected after the Notification dated 13.02.2018 was published under Section 3D of the National Highways Act.

3. In course of hearing, the learned counsel for the petitioner has submitted that vide the impugned decision dated 12.06.2025 to 24.06.2025, the District Magistrate and CLSA under NH Act, 1956 has ordered as follows :

“The claim of the petitioners for compensation over plot nos. 1308, 1314, 1316, 1320, 1352, 1358, 1366 & 1391 cannot be accepted at this stage due to absence of their name in current LR land record as well as possession. For plot no.1495, the claim of Fajilatun Necha for 0.01 Acres has been accepted for compensation.

However, the applicants are at liberty to establish their title before a competent Civil Court or through appropriate legal remedy. If a declaration of ownership is obtained, the claim maybe reconsidered subject to availability of compensation amount.

The case is hereby disposed.”

4. Learned counsel for the petitioner has also relied upon the provisions of the National Highways Act, 1956 wherein **Section 3(H)(4)** lays down :

*“(4) 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 situate.”*

5. The learned counsel has further placed a manual of guidelines on Land Acquisition for National Highways under the National Highways Act, 1956 and relies upon clause 4.8 therein which is as follows :

“4.8. Reference to the Principal Civil Court of original jurisdiction:

- (i) In matters where 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, upon an application made in writing by the landowner or the person interested therein in this behalf, the competent authority shall refer the dispute to the principal civil court of original jurisdiction within the limits of whose jurisdiction the land is situated for its decision. The CALA shall also submit a list of the claimants along the details of their land and the amount payable as per his Award to such claimants.*
- (ii) In matters where a reference is made to the principal civil court of original jurisdiction for resolution of a dispute as mentioned above, the Competent Authority may also seek the leave of the Court to deposit the amount of compensation with the court for its*

apportionment and disbursement among the entitled persons after resolution of the dispute. Upon depositing the amount with the Civil Court, the compensation amount shall be deemed to have been paid to the landowners or the persons interested therein, with no further claims on this account.”

6. Considering the said facts and the said provisions of law, the impugned direction of the District Magistrate and CALA under NH Act, 1956, wherein the said authority has directed the applicant to establish the title before the competent Civil Court, being not in accordance with law **is set aside.**

7. Accordingly, the District Magistrate and CALA who passed the impugned order is directed to act as per Section 3H(4) of the National Highways Act, by referring the dispute to the principal Civil Court of original jurisdiction within the limits of whose jurisdiction the land is situated. The District Magistrate shall also act according to clause 4.8 of the manual under reference.

8. **The petitioners herein are directed to make an application before the District Magistrate as per clause 4.8 of the manual.**

9. **Writ application stands disposed of.**

10. Connected application, if any, stands disposed of.

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

(Shampa Dutt (Paul), J.)