



**IN THE HIGH COURT OF JUDICATURE AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

RESERVED ON: 26.08.2025
DELIVERED ON: 29.08.2025

CORAM:

**THE HON'BLE THE CHIEF JUSTICE T.S. SIVAGNANAM
AND
THE HON'BLE JUSTICE CHAITALI CHATTERJEE (DAS)**

MAT NO. 1959 OF 2023

**SUBRATA HAIT
VERSUS**

INDIAN OIL CORPORATION LIMITED AND OTHERS

Appearance:-

**Mr. Debasish Kundu, Sr. Adv.
Mr. Indranil Nandi, Adv.
Mr. Debaprasad Samanta, Adv.
Mr. Sayak Konar, Adv.**

.....For the Appellant

**Mr. Pratik Dhar, Sr. Adv.
Mr. Biswaroop Bhattacharyya, Adv.
Mr. Victor Chatterjee, Adv.
Mrs. Sharmistha Ghosh, Adv.
Mr. Ranit Roy, Adv.**

.....For the Respondent/I.O.C.L



JUDGMENT

(Judgment of the Court was delivered by T.S. Sivagnanam, CJ.)

1. This intra Court appeal at the instance of the respondents in WPA 13787 of 2023 is directed against the order dated 25.08.2023 passed in the writ petition filed by the Indian Oil Corporation Limited (hereinafter referred to as IOCL). The IOCL filed the writ petition challenging the reassessment of compensation payable by them to the appellants for acquiring right of user of the land of the appellants. The said writ petition was allowed by holding that the Petroleum and Minerals Pipelines (Acquisition of Rights of User in Land) Act, 1962 (hereinafter referred to as the 1962 Act) does not confer any power of review or re-adjudication on the competent authority as defined under Section 2(a) of the Act. The learned Single Bench further directed that it will be open to the appellants to approach the concerned District Judge in terms of Section 10(2) of the said Act. Aggrieved by such decision, the appellants, the land owners/lease holders have filed the present appeal.

2. We have elaborately heard Mr. Debasish Kundu, Learned Senior Advocate Assisted by Mr. Indranil Nandi, Mr. Debaprasad Samanta and Mr. Sayak Konar, learned Advocates for the appellant and Mr. Pratik Dhar, Learned Senior Advocate assisted by Mr. Biswaroop Bhattacharyya, Mr. Victor Chatterjee, Mrs. Sharmistha Ghosh and Mr. Ranit Roy, learned Advocates for the respondent/ IOCL.

3. IOCL filed the writ petition contending that Section 10(1) of the Act provides that any person interested in the land, who has suffered any damage, loss or injury in exercise of the power conferred on the authorities



by Sections 4, 7 or Section 8 of the Act is allowed to approach for compensation before the competent authority in the first instance and if the amount adjudicated or awarded by the competent authority is not acceptable to either of the parties, they can approach the concerned District Judge in terms of Section 10(2) of the Act. IOCL argued that the competent authority exceeded its jurisdiction in reviewing his own order instead of relegating the appellants to the concerned District Judge by invoking Section 10(2) of the Act therefore, the order passed by the competent authority, impugned in the writ petition, is vitiated by lack of inherent jurisdiction.

4. The following facts would be necessary to consider the correctness of the impugned order.

5. The appellants had earlier filed a writ petition before this Court in WPA 19895 of 2021 praying for issuance of a writ of mandamus to direct IOCL to forthwith pay the entire compensation in respect of the loss and damage suffered by them during the laying of the pipeline by IOCL in terms of the provisions of the Act. It was contended by the appellants that the issue regarding payment of compensation in terms of the Act is pending for consideration before the competent authority and instead of entering into the merits of the claims and counterclaim of the respective parties the Court may direct the competent authority to decide the prayer for payment of compensation as contained in the letter dated February 17, 2020 in accordance with law. Further grievance was expressed that though the pipeline has not been laid in the entire extent of land, IOCL is not allowing



the appellants to use the said land on the ground that the pipelines have been drawn under the said property. IOCL did not oppose the prayer to the effect that a direction may be passed upon the competent authority for deciding the prayer for payment of compensation under the provisions of the Act. However, they disputed the submission made by the appellant that IOCL is not allowing them to use the property in question. Further grievance was expressed that IOCL has erected barrier in the property causing obstruction to the enjoyment of the property. This allegation was denied by IOCL. The learned Writ Court was of the view that disputed factual issues cannot be decided in a writ petition and the petitioners therein who are the present appellants will be at liberty to approach the appropriate authority in case they feel any inconvenience in the matter of user and enjoyment of the property in question. The Court further recorded that it is not in dispute that a sum of Rs. 42,12,244/- has been paid by IOCL to the appellants on account of the compensation but the grievance is with regard to enhancement of compensation and payment of any further sum in terms of the provisions of the Act. The Court noted that the pipelines have been laid using a portion of the large chunk of the property and though the land owner has a right to use and enjoy the property, he should not be permitted to cause any damage or undertake any act or activity which is restricted under the provisions of the Act. With this observation, this writ petition was disposed of by order dated 23.03.2023 by directing the competent authority to consider the prayer of the writ petitioner as contained in the letter dated February 17, 2022 within a timeframe and dispose of the same by passing a



reasoned order to be communicated to the appellant within a period of one week from the date of passing of the said order.

6. After the disposal of the writ petition, the appellants submitted another representation dated 11.04.2023 in continuation of the earlier representation dated 17.02.2022 claiming compensation at the rate of Rs. 1250/- per decimal for every 110 days and accordingly, calculated the amount at Rs. 11,00,86,362/-. The competent authority took up the matter for hearing, noted the direction issued in WPA 19895 of 2021 dated 23.03.2023 issued notice to the parties and heard their submission. During the hearing, submission was made on behalf of the IOCL that the competent authority has become *functus officio* and does not have any authority under the Act to grant any further compensation and the only remedy available is to prefer an appeal before the learned District Judge if he is not satisfied with the said compensation paid by IOCL. The claimant had placed copies of three agreements in the writ petition and contended that the agreements were executed by IOCL and different sets of lease holders of fisheries all being in the same District of Purba Medinipur and in the said agreement the payment of compensation has been arrived at after mutual discussion. It was observed that in some cases the project work could not be completed withing the time frame as mentioned in the agreement and the respective lease holders demanded further compensation. The competent authority noted that a sum of Rs. 42,12,245/- has been paid by IOCL without executing any agreement with the appellant and, therefore, agreeing with the appellant that to the extent that there lies no agreement with regard to



the computing of compensation, and the period for which compensation will be paid. Further, the competent authority held that in the absence of execution of such agreement by IOCL the contention of the appellant cannot be brushed aside. IOCL on the contrary submitted that the Acquittance Roll with regard to the new project was prepared and crop compensation for the period from 01.03.2021 to 28.02.2022 totally Rs. 42,12,245/- was paid partly on 03.03.2021 and the other part on 11.05.2021. The competent authority on the perusal of the Acquittance Roll noted that the time period i.e. 01.03.2021 to 28.02.2022 is not explicit in the Acquittance Roll. Further, the competent authority noted that in almost all cases initial agreements were executed by and between IOCL and respective lease holders/ owners with regard to payment of compensation and the said compensation was ultimately paid on the basis of the agreed amount. The competent authority faulted IOCL in not having consulted the competent authority nor held any discussion with the lease holders and when disputes arose and IOCL could not settle the matter with the respective lease holders, the competent authority was called upon to interfere. The competent authority found that the case of the appellant is one such case where there was no discussion with the competent authority during the payment of the sum of Rs. 42,12,245/- by way of crop compensation except the cheques were signed against the award prepared based on the Panchnama for payment to the lease holder by way of compensation and nothing was discussed with the competent authority prior to negotiation or settlement with the lease holder. IOCL had contended before the competent authority that the appellant handed over only the land within the right of used area



and not the entire extent of 9360 decimals. This argument of IOCL was rejected by the competent authority holding that in view of the fact that Panchnama dated 22.05.2020 records that the total area of affected crop is 9360 decimals which corroborates with the affected area of 3,78,799 sq. meters as mentioned in the Acquittance Roll. The dispute was as to whether the land was put to use for pisciculture or not was also dealt with by the competent authority. It was further noted by the competent authority that the appellant by their representation dated 17.02.2022 prayed for compensation at Rs. 1250/- per decimal for every 110 days and upon perusal of the agreements entered into with the other lease holders it was seen that IOCL had paid Rs. 1000/- per decimal for 110 days and in the case of the appellant the accepted rate was Rs. 450/- per decimal which was accepted by the appellant without objection and therefore, held that the rate per decimal cannot be enhanced.

7. The competent authority next proceeded to consider the argument of IOCL that he has become *functus officio*. It was pointed out that by email dated 25.01.2022 the matter was referred to the competent authority by the General Manager (Construction), IOCL, Haldia for out of Court settlement and consequent upon receiving the said mail, proceeding was initiated which was kept in abeyance during the pendency of the writ petition filed by the appellant and having regard to the direction issued in the writ petition it was held that the competent authority cannot be stated to have become *functus officio* and that he cannot decide the question of payment of additional compensation or further compensation to the appellants.



Accordingly, the competent authority held that he is empowered under the provisions of the Act and the direction issued by this Court in the earlier writ petition to pass the order. Accordingly, the competent authority held that the appellants were entitled to further compensation at Rs. 450/- per decimal for 60 days for the period from 20th May, 2020 to 13th June, 2022 i.e. for 754 days as they could not cultivate the lease land from 14th June, 2022 till the date of handing over the possession on 23.03.2023. They are entitled to get present crop value in terms of Rule 4(2)(e) of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Rules, 1963 for 283 days which will be 80% of the crop value. Direction was issued for payment of compensation within one month from the date of passing of the order by the competent authority. The said order passed by the competent authority was put to challenge by IOCL in WPA 13787 of 2023 which was allowed by the impugned order. The following are the broad issues which fall for consideration in this appeal.

- (a)** On and after the passing of the order in WPA 19895 of 2021 dated 23.03.2023 is IOCL entitled to object to the jurisdiction of the competent authority to consider the claim made by the appellants vide the letter dated 17.02.2022?
- (b)** It is an admitted fact that compensation has been paid to the appellants calculated at the rate of Rs. 450/- per decimal which was paid in two instalments and it has to be seen as to how the said amount of Rs. 450/- was arrived at.



(c) If it is an admitted position that no agreement was entered into between the appellant and IOCL can the appellant be compelled to accept the compensation at the rate of Rs. 450/- per decimal?

(d) Is the claim made by the appellant a claim for additional compensation or enhanced compensation?

(e) Whether IOCL is entitled to place any arguments by referring to Section 9 of the Act which deals with restrictions regarding the use of land?

8. We proceed to decide the above issues in seriatum.

9. The learned Single Bench was of the view that a direction issued in the writ petition to take a decision on the prayer made by the appellants in the representation does not mean that such prayer had to be necessarily allowed and as the decision would also include adjudication on the question of authority and jurisdiction and it cannot be said that there was an unqualified submission of IOCL to the jurisdiction of the competent authority to re-adjudicate the compensation granted by the appellants. Further, it was observed that the direction issued in the writ petition for consideration also includes the option to reject, including a rejection on the ground of jurisdiction as well. Accordingly, it was held that IOCL is entitled to canvas the jurisdiction of the competent authority to adjudicate the claim.

10. In the preceding paragraphs, we have set out the observations made by the learned Writ Court while disposing of WPA 19895 of 2021 by order dated 23.03.2023. as noted by the learned Single Bench and by ourselves, IOCL did not oppose the prayer sought for by the writ petitioner to direct the



competent authority to decide the prayer for payment of compensation as contained in the appellant's letter dated 17.02.2022 in accordance with law. There were other submissions made before the learned Writ Court which are not very germane for deciding this appeal. The Court also noted that a sum of Rs. 42,12,244/- has been paid by IOCL to the appellants and it observed that the grievance of the appellant as made in the representation is with regard to enhancement of compensation and payment of any further sums in terms of the provisions of the Act. With these observations direction was issued to consider the prayer made by the appellant in their representation dated 17.02.2022. If according to IOCL the competent authority had no jurisdiction to adjudicate claim that should have been their first objection to the prayer sought for by the appellant. It is no doubt true that the settled legal principle is that by consent or concession jurisdiction cannot be conferred on an authority, nonetheless it was well open to IOCL to raise the issue regarding the jurisdiction of the competent authority to decide the representation of the appellant at the threshold when the writ petition was heard. IOCL did not do so, rather did not oppose to the prayer sought for. Had IOCL raised the issue regarding jurisdiction, in all probabilities the learned Writ Court would have dealt with the same and arrived at a decision. Thus, we would be right to come to a conclusion that such argument though available to IOCL, was not put forth and would be construed to have been a waiver of the contention that the competent authority does not have jurisdiction to adjudicate the claim made in the representation dated 17.02.2022. It is not as if the learned Writ Court had not examined the merits of the matter to the extent required considering the



relief that was required to be granted. The parties were represented by the respective Senior Counsels and submissions were made and some of the submissions were also made with regard to the obstruction of the use of the land by the appellant which was rebutted by IOCL and the Court gave liberty to the appellants to approach the appropriate authority. Therefore, it is not a pure and simple direction issued by the learned Writ Court by passing an innocuous direction to consider the representation and dispose of the same on merits. The Court also directed that the appellant shall be entitled to use the property as specifically mentioned in the Panchnama dated 22.05.2020 in the manner permitted under the provisions of the 1962 Act. Therefore, we are unable to persuade ourselves to agree with the learned Single Bench to hold that IOCL could raise the issue regarding jurisdiction of the competent authority when the adjudication commenced by the said authority. This issue is accordingly decided.

11. The next issue which in our opinion, is the most vital issue in the facts and circumstances of the case is that whether the claim made by the appellants in the representation dated 17.02.2022 is a claim for enhanced compensation or for compensation for the period for which no compensation was determined and paid. In fact, on going through paragraph 8 of the order passed in WPA 19895 of 2021 dated 23.03.2023 it is seen that the learned Single Bench took note of this fact and recorded that the grievance of the appellant is with regard to enhancement of compensation and payment of any further sums in terms of the provisions of the Act. The compensation at



the rate of Rs. 450/- per decimal was computed for the period of 60 days that is from 22.05.2020 to 21.07.2020.

12. Mr. Dhar, Learned Senior Advocate appearing for IOCL placed heavy reliance on the Acquittance Roll which is annexed in page 197 of the stay application to state that the total compensation has been arrived at and paid in two instalments which have been acknowledged by appellants and as such determination of the compensation has been made in terms of Section 10(1) and the competent authority has no jurisdiction to review its decision as no such power has been conferred on the competent authority under the 1962 Act. In support of such contention, reliance was placed on the decision of the Hon'ble Supreme Court in **S. Sethuraman Versus R. Venkataraman and Others** ¹, **Kalabharati Advertising Versus Hemant Vimalnath Narichania and Others** ².

13. Mr. Kundu, Learned Senior Advocate appearing for the appellant would fairly submit that there can be no quarrel or dispute about the said legal proposition that unless the statute or rule permits, review application is not maintainable in case of judicial or quasi-judicial orders and in the absence of any provisions of the Act granting an express power of review, it is manifest that review could not be made and the order in review, if passed, is ultravires, illegal and without jurisdiction. The above legal principle cannot be disputed as review of an earlier order is impermissible as review is a creation of statute.

¹ (2007) 6 SCC 382

² (2010) 9 SCC 437



14. The competent authority rightly noted that in Acquittance Roll which notes the payment made to the appellant in two instalments of Rs. 21,06,122/- each, there is no mention of the period for which the compensation amount was computed, determined and paid. As could be seen from the representation given by the appellant dated 17.02.2022, the appellant had admitted having received a sum of Rs. 42,12,245/- which was paid in two instalments which was for a period of 60 days as the appellant were informed that within the period of two months, the work will be completed. The claim made is for the period post the 60 days for which the compensation has already been paid for the said period. The appellant wanted compensation to be computed at the rate of Rs. 1250/- per decimal for every 110 days. This was based on the compensation which was disbursed by IOCL to the other lease holders in the district of Purba Medinipur. Therefore, the factual position is evidently clear that the claim made by the appellant was for the period beyond the first 60 days for which compensation was computed determined and paid. Therefore, we have no hesitation to hold that the claim made by the appellant in their representation dated 17.02.2022 is not for enhanced compensation of the original compensation paid at the rate of Rs. 450/- per decimal but it was for a period beyond period of 60 days for which no compensation was determined, awarded and paid. No doubt it is true for the said period, the appellant claims compensation at the rate of Rs. 1250/- per decimal. The question is whether they could do so has to be considered.



15. Thus, having steered clear of the factual position that the claim made by the appellant is a fresh claim, it would be misnomer to state that the claim is for enhanced compensation rather the correct terminology would be additional compensation for the period for which no compensation was determined awarded or paid. Therefore, if the factual position is so, the competent authority had jurisdiction to decide the claim since the 1962 Act confers power on the competent authority under Section 10(1) of the Act to determine the compensation in the first instance. To explain the meaning of the words “for the first instance”, the learned Senior Advocate appearing for the IOCL relied upon the decision in **Hindustan Petroleum Corporation Limited Versus Yashwant Gajanan Joshi and Others** with **Union of India Versus Yashwant Gajanan Joshi and Others** ³. In paragraph 13 of the said judgment, the Hon’ble Supreme Court has noted Section 10 of the Act and pointed out that the legislature has used the words “the amount of which shall be determined by the competent authority the first instance”. In Sub Section 1 of Section 10 clearly shows that in the first instance, it has to be decided by the competent authority and such determination shall not attain any finality.

16. The factual matrix in the said decision is entirely different and not applicable to the case on hand. However, in paragraph 13, the words used in Section 10(1) of the Act has been explained by the Hon’ble Supreme Court. As we have held that in respect of the claim made by the appellant in their representation dated 17.02.2022 was never decided by the competent authority at any point of time as the period for which the compensation is

³ 1991 Supp (2) SCC 592



claimed was well beyond the period of 60 days for which compensation has been computed and paid. Therefore, the determination done by the competent authority by order impugned in the writ petition is the determination in the “first instance” in terms of the power conferred on the competent authority under Section 10(1) of the Act. Therefore, the order passed by the competent authority is not an order passed reviewing its earlier decision but it is a fresh decision taken for the first time in respect of the claim made by the appellant in the representation dated 17.02.2022. Therefore, we are of the firm view that the order passed by the competent authority is not an order in review but an order passed at the “first instance” and therefore the competent authority cannot be stated to have acted beyond the jurisdiction nor can be stated to have become *functus officio*.

17. The next issue to be considered is as to how the amount of Rs. 450 per decimal was arrived at while awarding the compensation. The other issue is also connected with this issue namely whether the appellants can be compelled to accept a sum of Rs. 450 in the absence of any agreement. Sample copies of the agreement have been placed before this court which was entered into between the IOCL and other lease holders wherein IOCL in no uncertain terms had agreed to pay additional compensation if the work is not completed within the stipulated period and in the said case, the period stipulated was 45 days. Another agreement with other lease holders which also shows that not only once but twice additional compensation had been paid to the lease holders/owners or on account of delay in completion of the project. The rights which accrued in favour of those lease holders and



owners pursuant to such agreement cannot be denied by IOCL as IOCL have accepted the terms and conditions in the agreement and also the effected payment of the additional compensation to those lease holders/owners. If that be the case, it is rather surprising for a public sector undertaking to not enter into an agreement with the lease holders/owners/appellant before commencing the project. Curiously enough the entire project was implemented by entering into the Panchanama dated 22.05.2020. In the Panchnama there is a tabulated statement which gives names of the crop, Dag number in which crop exists, area of effected crop and standing/presumptive crop. It has been recorded under the column "name of crop" as "fisheries". The Dag numbers have been given, the area of affected is mentioned as 9360 decimal 3,78,799 square metres and in the column standing/presumptive crop it is mentioned as "standing". Thus, if it has been recorded in the panchnama as "fisheries", it will be too late in the day for IOCL to raise the objection by referring to Section 9 of the Act, 1962 which deals with restrictions regarding the use of land. In other words IOCL are estopped from doing so. The entire project proceed based on the panchnama, as mentioned, it is rather surprising that the IOCL had done so.

18. That apart, there is nothing to show that the appellants had unequivocally and consciously agreed to the sum of Rs. 450 per decimal which was paid to them for the period of 60 days computed at Rs. 42,12,245/-. In the absence of any admission on the part of the appellant, IOCL are not entitled to contend that appellant had accepted the said amount



without raising any objection, if there was an agreement and in the agreement there were covenants and conditions, the appellant have consciously signed the agreement, it would have been a different matter. Thus, in the absence of any such agreement the compensation which was determined at the rate Rs. 450/- per decimal can be construed only a determination at the first instance under Section 10(1) of the Act and if the appellants are aggrieved they are entitled to approach the concerned District Court for enhanced compensation over and above of Rs. 450/- per decimal for the period of 60 days in terms of the sub section 2 of Section 10. This right being statutory right cannot be objected by IOCL, more particularly, when there is nothing on record, to show that the appellants had unequivocally accepted the said amount.

19. Mr. Kundu, Learned Senior Advocate appearing for the appellant is right in drawing an analogy by referring to Section 28A of the Land Acquisition Act, 1894 which provides for land losers to claim enhanced compensation, in the event the adjoining land owners whose lands were also acquired were paid enhanced compensation pursuant to an order of reference under Section 18 of the 1894 Act and seek for re-determination.

20. The concept of compensation for land losers either by way of compulsory acquisition or by way of acquisition and in terms of the 1962 Act which undoubtedly puts certain restrictions on the land owners with regard to the use of land, the concept has had a sea change after the enactment of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. The title of the Act



itself prioritises the rights of the land owners in contradistinction with the title of the 1894 Act or for that matter the 1962 Act. The 2013 Act also provides for rehabilitation and resettlement in case of compulsory acquisition of land. Therefore, the claim for compensation when is being decided after enactment of the 2013 Act has to be viewed with a different prism bearing in mind the loss the land owners/lease holders had suffered and the difficulty he would put to on account of the restrictions as contained in Section 9 of the 1962 Act. Therefore, there is paradigm shift in the approach to such matters which must weigh in the mind of IOCL. Therefore, we hold that the appellants are entitled to approach the concerned District Court in Sub Section (2) of Section 10 of the 1962 Act claiming enhanced compensation over and above the compensation of Rs. 450 per decimal calculated for a period of 60 days by filing appropriate application before the concerned District Court. We reiterate that the claim made in the representation dated 17.02.2022 is not a claim for enhanced compensation but it is fresh claim for a period for which no compensation was determined or paid as it is the period beyond the initial period of 60 days.

21. We further reiterate that in the absence of any indication in Acquittance Roll, which was heavily relied upon by IOCL, it has to be held that the determination done and the compensation paid as noted in the Acquittance Roll for the initial period of 60 days and not thereafter. As already pointed out the panchanama clearly records the land was put to use for “fisheries” and the type of crop is mentioned as “standing”. Therefore, IOCL are estopped from now contending that the appellants had violated the



condition stipulated in clause (ii) of proviso under Section 9(1) of the 1962 Act. This is more so, because the recording in the panchnama was never disputed by IOCL.

22. That apart, the Panchnama is a document recognised under the statute. If we look into Rule 4A of the 1963 Rules under Sub Rule 2 of Rule 4A it states that while conducting enquiry while granting the compensation under sub Rule 3 of Rule 4, the competent authority shall follow procedure as stipulated in sub rule 1 and in sub rule 2. In Sub Rule 2, it is stated for compensation for the other damages or loss while exercising the power conferred under the Act or rules made thereunder, the competent authority shall obtained the panchnama prepared by the team appointed by him duly signed preferably by the person interested in the land or by two independent and respectable inhabitants of the locality and the representative of the work execution agency. The said panchnama shall contain the details of damages or losses caused while exercising power conferred by Section 4,7 or 8 of the 1962 Act. Therefore, panchnama is a vital document to be taken note of while conducting an enquiry for grant of compensation under sub rule 3 of rule 4 of the 1963 rules. Therefore, whatever has been recorded in the panchnama cannot be disputed by IOCL at this stage or at any anterior point of time.

23. In the light of the above discussion, it is held that the competent authority had not reassessed compensation payable by IOCL to the appellant as it is compensation which has to be determined at the first instance in terms of the Section 10(1) of the Act. The compensation which



was claimed by the appellant in their representaiton dated 17.02.2022^{2024:CHC-AS:2497-DB} is for additional compensation and not enhanced compensation.

24. For all the above reasons, the appeal is allowed. The order passed by the Learned Single Bench is set aside with the following directions:-

- (i) The compensation which was determined by the competent authority in the order dated 22.05.2023 which was impugned in the writ petition is held to be a determination of the compensation by the competent authority in the first instance in terms of Section 10(1) of the 1962 Act.
- (ii) In the absence of an agreement between IOCL and the appellant with regard to the rate of compensation, and in the absence of any record to show that the appellants had unequivocally accepted the sum of Rs. 450/- it has to be held that the amount of Rs. 450/- which was computed determined and paid to the appellant being a total sum of Rs. 42,12, 245/- is a compensation determined at the “first instance” and the appellant is entitled to file an application before the concern District Judge for enhancement.
- (iii) Having held that the compensation which was determined and computed by the competent authority in the order impugned in the writ petition is the compensation determined at the “first instance”, the appellant are entitled to file an application before the concerned District Judge under Section 10(2) for enhancement of the said compensation.



(iv) IOCL is directed to pay the compensation as computed by competent authority in the order dated 22.05.2023, impugned in writ petition, within the period of 30 days from the date of the receipt of the server copy of this order and the appellant is at liberty to file an application before the concerned District Judge for enhancement within the period of three months from the date on which the amount as ordered by competent authority is paid in full to the appellant. The concerned District Judge shall extertain the application and decide the same on merits and in accordance with law.

(v) In the light of the facts recorded in the panchnama dated 22.05.2023, the respondent IOCL are estopped from raising any argument alleging that the appellant had violated the restrictions contained under Section 9 of the 1962 Act as it was well within the knowledge of the IOCL that the land was put to use for fishery purpose.

25. In the operative portion of the judgment and order, we have held that the IOCL were not entitled to object to the jurisdiction of the competent authority in the light of the order passed in the earlier writ petition in WPA 19895 of 2021 and it would tantamount to waiver, however in the light of the conclusions arrived at by us holding that the determination of the compensation by the competent authority in the order impugned in the writ petition is a compensation determined in terms of Section 10(1), the said



finding has become academic. The appeal is allowed with the above **2024:CHC-AS:2497-DB**
directions. No costs.

(T.S. SIVAGNANAM, C.J.)

I Agree.

[CHAITALI CHATTERJEE (DAS), J.]

(P.A.- PRAMITA/SACHIN)

