

Court No. - 3

Case :- WRIT - C No. - 10479 of 2023

Petitioner :- Naveen Kumar And 20 Others

Respondent :- The Ministry Of Road Transport And Highways
Thru. Secy. New Delhi And 3 Others

Counsel for Petitioner :- Dileep Kumar Mishra, Prabhat
Mishra

Counsel for Respondent :- A.S.G.I., C.S.C., Sarvesh Kumar
Dubey

Hon'ble Vivek Chaudhary, J.

Hon'ble Manish Kumar, J.

Heard learned counsel for the parties and perused the record.

Present writ petition has been filed challenging the notice dated 9.6.2023 issued by the Prescribed Authority / Additional Sub-District Magistrate, Sultanpur.

By the impugned notice the Additional Sub-District Magistrate, Sultanpur has required the District Magistrate / Collector, Sultanpur to recover an amount which is awarded by an award dated 10.03.2023 by the Arbitrator / District Magistrate, Sultanpur under Section 3(G)5 of National Highways Act, 1956.

Learned counsel for the petitioners states that it is an award of arbitration and the same could be recovered as per Section 36 of the Arbitration Act, 1996 by an execution through the civil Court having jurisdiction and no recovery certificate as directed by the impugned notice can be adopted.

Learned Additional Chief Standing Counsel states that a recovery can be made under Section 33(3) of the Land Acquisition Act, 2013. Section 33 of the Land Acquisition Act, 2013 relates to correction of award. Section 33(3) of the Act provides that if any excess amount is proved to have been paid to any person as a result of the correction made under sub-section (1), the excess amount so paid shall be liable to be refunded and in the case of any default or refusal to pay, the

same may be recovered, as prescribed by the appropriate Government.

On bare perusal shows that Section 33 of the Land Acquisition Act, 2013 is not applicable to the proceedings as it is an award of arbitration under Section 3(G) 5 of NHA Act and not under Section 33 of the Land Acquisition Act, 2013. It is not a case for correction of award but against the award of compensation under the arbitration proceedings, which were decided by the arbitrator. Therefore, the provision of the Arbitration Act would be applicable and the amount can only be recovered thorough the proper execution proceedings under Section 36 of Arbitration Act 1998. Hence, the impugned letter / notice dated 9.6.2023 issued by Prescribed Authority / Additional Sub District Magistrate, Sultanpur is set aside.

The writ petition is allowed.

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[Manish Kumar,J.] [Vivek Chaudhary,J.]

Order Date :- 19.12.2023

S. Kumar