

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22888 of 2011

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Jognath Yadav S/O Late Jaldhari Yadav, R/O Village- Sakri, P.S.- Sakri,
District- Madhubani

.... Petitioner/s

Versus

1. The Union of India through the Secretary, Department of Road Transport and Highways
2. The Secretary, Department of Road Transport and Highways, Govt. of India, New Delhi
3. The National Highways Authority of India, through its Chairman
4. The Chairman, the National Highways Authority of India, New Delhi, through Project Director, Directorate.
5. The State of Bihar through the Secretary, Land Acquisition Department
6. The Secretary, Land Acquisition Department, Govt. of Bihar, New Secretariat, Patna
7. The Collector, Madhubani
8. The Special Officer-Cum-Land Acquisition Officer, Madhubani
9. The Additional Collector-Cum-Arbitrator Appellate Officer, Madhubani

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shailendra Kumar Jha
For the Union of India : Mr. S.N.Pathak
For the State of Bihar : Mr. Krishna Chandra, AC to AG
For the N.H.A.T. : Mr. Sunil Kumar-II
Mr. Ranjan Kr. Singh

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

5 14-09-2015 Heard the parties.

The petitioner is aggrieved by order dated 03.04.2010 passed in Case No. 4 of 2009-10 by the respondent Additional Collector-Cum-Arbitrator/ Appellate Authority, Madhubani, as contained in Annexure-1, whereby the claim raised on behalf of the petitioner in terms of Section 3G(5) of The National Highways Act, 1956 (in short 'Act, 1956') has been rejected.

Learned counsel appearing on behalf of the petitioner, while assailing the validity and correctness of the impugned order, has raised certain issues of facts. According to him, those issues of facts have not been properly considered by the

respondent no.9. Hence, impugned order is not sustainable in law.

Per- contra, learned counsel appearing on behalf of the respondents are unanimous in their submissions that against the impugned order, the petitioner has an alternative and efficacious remedy before the civil court in view of the provisions contained in Section 3G(6) of the Act, 1956 read with Section 34 of The Arbitration and Conciliation Act, 1996. Therefore, according to them, the writ petition is not maintainable at this stage, and is liable to be dismissed.

In the considered opinion of this Court, the issues of facts must be raised by the parties and conclusively decided by the statutory authorities and only thereafter, powers of judicial review of the High Court under Article 226 of the Constitution of India may be invoked.

In above view of the matter, at this stage, learned counsel appearing on behalf of the petitioner seeks permission to withdraw the present writ petition with a liberty to approach the civil court of competent jurisdiction, under the provisions of law as noticed above, for grant of appropriate relief to the petitioner with respect to the lands in question.

Permission is accorded.

The writ petition stands dismissed as withdrawn with the liberty aforesaid.

(Birendra Prasad Verma, J)

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