

**HON'BLE SRI JUSTICE S.V. BHATT**

**WRIT PETITION No.1436 OF 2015**

**ORDER:**

Heard learned counsel for the petitioners, the Government Pleader and the standing counsel for respondent Nos.3 and 4.

The petitioners assail orders dated 30.12.2013 and the consequential order of 2<sup>nd</sup> respondent dated 30.01.2014, as illegal, arbitrary and contrary to the provisions of the National Highways Act, 1956.

The facts are not in dispute. On 14.02.2013, an Award was passed determining the compensation at Rs.630/- per square metre payable for the land acquired at the instance of National Highway for road widening. The 4<sup>th</sup> respondent filed Arbitration case before the 1<sup>st</sup> respondent. On 30.12.2013, the 1<sup>st</sup> respondent set aside the Award dated 14.02.2013 and remitted the matter to 2<sup>nd</sup> respondent for fresh determination. The 2<sup>nd</sup> respondent through latest order dated 30.01.2014 re-fixed the compensation as payable at Rs.315/- per square metre. Hence the writ petition.

In the brief narration referred to above, the illegality pointed out by the petitioners is that through Award dated 14.02.2013, the compensation is determined at Rs.630/- per square metre. The petitioners were under the *bona fide* impression that the compensation will be paid as determined through order dated 14.02.2013. If the 4<sup>th</sup> respondent has filed Arbitration Case before the 1<sup>st</sup> respondent against the Award dated 14.02.2013, the minimum procedural requirement is that the petitioners are put on notice and they are heard before the Award dated 14.02.2013 is set aside by the Arbitrator/1<sup>st</sup> respondent. As directed by this Court through docket order dated 17.04.2015, the original file is produced. The learned Government Pleader on verification states that before setting aside the Award dated 14.02.2013 the petitioners were not put on notice. On this short ground alone, the order dated

30.12.2013 of 1<sup>st</sup> respondent is set aside and the matter is remanded to 1<sup>st</sup> respondent for fresh consideration and decision after issuing notice to the petitioners. It is needless to observe that as the order dated 30.12.2013 is set aside, the order dated 30.01.2014 passed on remand by 2<sup>nd</sup> respondent does not survive and accordingly the same is set aside.

The writ petition is allowed and remanded. No order as to costs.

Miscellaneous petitions, if any, pending in the writ petition shall stand closed.

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**S.V.BHATT, J**

Date:23.04.2015

Stp