

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3017 of 2014

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Brij Nandan Thakur Son of Late Somar Thakur, Resident of Village-Sabalpur, P.S. Didarganj, Patna City, Distt. Patna, at Present Residing At Mohallah- Khajpura, Akashwani Road, P.S. Shastri Nagar, Town, District-Patna

.... Petitioner/s

Versus

1. The Union of India, through Secretary, Ministry of Road Transport and High Ways Govt. of India, New Delhi
2. The Deputy Secretary, Ministry of Road Transport and High Ways Govt. of India, New Delhi
3. The National High Way Authority of India through its Chairman-Cum-Secretary, Ministry of Shipping, Road Transport and High Ways Govt. of India, New Delhi
4. The Project Director, National High Ways Authority of India D-36, Shree Krishnapuri, Patna
5. The District Magistrate, Patna
6. The District Land Acquisition Officer-Cum-Competent Authority, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Keshav Srivastav, Sr. Adv.
Mr. Sarbottam Kumar Sarkar, Adv.

For the Respondent No.1 & 2 : Dr. Punam Kumar Singh, CGC

For the Respondent No. 3 & 4 : Mr. Srinath Pathak, Adv.
Mr. Surendra Kr. Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

6 21-07-2016 Heard the parties.

The petitioner is aggrieved by the order dated 26.08.2013 passed in Arbitration Case No. 7 of 2012-13 by the respondent Additional Collector, Patna-cum- Arbitrator, appointed by the Central Government under the provisions of The National Highways Act, 1956, as contained in Annexure-17 to the writ petition, whereby the plea raised on behalf of the petitioner that the lands of the petitioner, so acquired under the provisions of The National Highways Act, 1956, are commercial in nature has not been accepted, and instead it has been held that the lands, so acquired, are agricultural in nature.



Though, the learned Senior counsel appearing on behalf of the petitioner has argued the matter at some length, but at the very outset the learned counsel appearing on behalf of the respondent no. 3 and 4 has raised the question of maintainability of the present writ petition on the ground that against the order impugned the petitioner has an alternative remedy before the civil court of competent jurisdiction particularly in view of the decision of a Division Bench of this Court in the case of **Project Director, National Highway Authority vs. Md. Gufran Alam** [2014(1) PLJR 207].

In above view of the matter, the learned Senior 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 for grant of appropriate relief(s) with respect to the lands in question acquired under the provisions of The National Highways Act, 1956 as also the order impugned.

Permission is accorded.

The writ petition stands disposed of as withdrawn with the liberty aforesaid.

It goes without saying that if the petitioner approaches the civil court for grant of appropriate relief, after impleading all the necessary parties, then he shall be at liberty to raise all the issues of facts and law, which may be available to him.

It is further clarified that if such a suit is brought by the petitioner within a period of one month from today with a certified copy of the present order and it is found to have become barred by limitation and if any petition is filed for condonation of delay, then the learned civil court shall take into consideration that on a bonafide legal advice, the present writ petition was filed on

05.02.2014 before this Court and that remained pending till date.

(Birendra Prasad Verma, J)

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