

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1972 of 2011

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Md.Alam S/O Late Md. Usman Sakari R/O Purani Bazar Naktoliya, P.S.- Sakari,
P.O.- Sakari, Distt.- Madhubani

.... Petitioner/s

Versus

1. The Union of India through the Secretary Ministry of Road and Surface Transport Govt. of India, New Delhi
2. The Secretary Ministry of Road and Surface Transport, Govt. of India, New Delhi
3. The Chief Engineer, N.H. 57, National High Way Authority of India, House of Sri S.N.Mishra Ward No. 10, Dighi, West Darbhanga, Bihar
4. The Competent Officer –cum- District Land Acquisition Officer, Madhubani
5. The Project Director, National High Way Authority of India, House of Sri S.N. Mishra Ward No. 10, Dighi, West Darbhanga, Bihar

.... Respondent/s

With

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Civil Writ Jurisdiction Case No. 3440 of 2011

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Chand Bibi W/O Md. Alam, resident of Purani Bazar Kaktoliya, P.S. Sakari, P.O. Sakari, District Madhubani.

.... Petitioner/s

Versus

1. The Union of India through Secretary Ministry of Road and Surface Transport, Govt. of India, New Delhi.
2. The Secretary, Ministry of Road and Surface Transport, Govt. of India, New Delhi.
3. The Chief Engineer, N.H. 57, National Highway Authority of India House of Sri S.N. Mishra Ward No. 10 Dist. West Darbhanga, Bihar.
4. The Competent Officer-cum-District Land Acquisition Officer, Madhubani.
5. The Project Director, National Highway Authority of India, House of Sri S.N. Mishra, Ward No. 10, Dighi, West Darbhanga, Bihar.

.... Respondent/s

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Appearance :

(In CWJC No.1972 of 2011)

For the Petitioner/s : Mr. Syed Arshad Alam, Advocate
Mrs.Anjum Perveen, Advocate

For the Respondent Nos. 1 & 2 : Mr. Awadhesh Pandey, CGC

For the Respondent Nos. 3 & 5 : Mr. S.N. Pathak, Sr.CGC

For the Respondent No.4 : Mr.Krishna Chandra, AC to AG.

(In CWJC No.3440 of 2011)

For the Petitioner/s : Mr. Syed Arshad Alam, Advocate
Mrs.Anjum Perveen, Advocate

For the Respondent Nos. 1 & 2 : Mr. Awadhesh Pandey, CGC

For the Respondent Nos. 3 & 5 : Mr. S.N. Pathak, Sr.CGC

For the Respondent No.4 : Mr.Krishna Chandra, AC to AG.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA

ORAL JUDGMENT

Date: 09-11-2016

In the aforesaid two writ petitions, the issues of fact and law involved are almost identical and common; therefore, with the consent of the learned counsel appearing on behalf of the parties, both the writ petitions have been heard together and are being disposed of by this common judgment.

2. The petitioner of CWJC No. 1972 of 2011 happens to be the husband of the petitioner of CWJC No. 3440 of 2011.

3. The matters in issue in both the writ petitions are acquisition of lands belonging to the petitioners under the provisions of The National Highways Act, 1956 (in short “the Act, 1956”) for widening of National Highway No. 57 and for payment of adequate compensation to them for their lands, detailed in the aforesaid two writ petitions.

4. The learned counsel appearing on behalf of the petitioners of both the writ petitions submits that, for acquisition of lands in question belonging to the petitioners, the amount of compensation was determined under Section 3-G (1) of the Act, 1956, but amount so determined, is not adequate. It is contended that for the building structure and trees standing over the lands in question, the amount of compensation has not been determined. It is next contended that the payment of compensation has been made only with respect to the part of the lands so acquired, but for remaining part of the lands, compensation is yet to be paid. Therefore, it is pleaded that an appropriate direction may be issued to the authorities concerned for payment of adequate compensation to the petitioners.

5. The matter has been contested by the learned counsel appearing on behalf of the respondents. According to them, after determination of amount of compensation for the lands so acquired,



compensation amount has already been paid to the rightful persons. They further contended that if the petitioners are, at all, aggrieved with the amount of compensation so determined in terms of Section 3-G (1) of the Act, 1956, they have an alternative remedy under Section 3-G (5) of the Act, 1956 before the Arbitrator already appointed by the Central Government. The learned AC to AG, appearing on behalf of the State of Bihar and its officials, has fairly conceded that there is no period of limitation prescribed for approaching the Arbitrator for redressal of valid grievances of the land owner(s).

6. After having heard the parties and on consideration of the materials available on the record, this Court finds that several disputed questions of facts have been raised on behalf of both the sides, which cannot be appropriately gone into in the present proceedings filed under Article 226 of the Constitution of India. This Court further finds that an alternative remedy is available to the petitioners before the Arbitrator so appointed by the Central Government.

7. In above view of the matter, both the writ petitions are disposed of with a liberty to the petitioners to approach the Arbitrator so appointed by the Central Government in terms of Section 3-G(5) of the Act, 1956 for redressal of their valid grievances with respect to the lands in question, which according to them were originally belonging to them.

8. If an appropriate petition is filed on behalf of the petitioners within a period of one month from today with a certified copy of the present order as also with all relevant documents, then the Arbitrator so appointed by the Central Government shall be obliged to consider and decide the valid claims of the petitioners in accordance with law and shall pass appropriate final order at an early date, but

before passing any final order, reasonable opportunity of hearing must be given to the petitioners, concerned officials as also the other private individual, if any, who may be laying their claim with respect to the properties in question.

9. The parties shall be at liberty to raise all the issues of facts and law, which may be available to them with respect to the lands in question, before the Arbitrator.

10. Both the writ petitions stand finally disposed of with the observations and directions made above.

(Birendra Prasad Verma, J)

Tahir/-

AFR/NAFR	
CAV DATE	
Uploading Date	15.11.2016
Transmission Date	