

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1039 of 2018

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Shanti Devi, W/o Gorakh Singh, Resident of Village- Hullakpur, Mauza-
Pakri, P.S.- Beur, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Revenue & Land Reforms Department, Government of Bihar, Patna.
2. The District Magistrate cum Collector, District- Patna.
3. The Additional Collector, Patna.
4. The District Land Acquisition Officer, Patna.
5. The Sub-Divisional Officer, Sub-Division, Patna.
6. The Union of India through Principal Secretary, Ministry of Road Transport and Highways, Government of India.
7. The Principal Secretary, Ministry of Road Transports and Highways, Government of India, New Delhi.
8. The National Highways Authority of India (NHAI) through Chairman-cum-Secretary G-5 & G-6, Sector-10, Dwarika, New Delhi.
9. The Project Director, National Highways Authority of India, D-63, Sri Krishnapuri.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Rakesh Kumar, Advocate
For the Respondent/s	:	Mr. Asif Kalim, AC to AAG12
For the Respondent Nos.:		Mr. Anshay Bahadur Mathur, Advocate

6, 7, 8 & 9

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT

Date : 10-09-2018

Heard learned counsel for the parties.

2. This writ application under Article 226 of the Constitution of India has been preferred for issuance of a command upon the respondents to pay compensation at the commercial rate of the land acquired.

3. Undisputed fact of this case is that the land of the petitioner was acquired for expansion of N.H.30 and N.H.84 under the provisions of National Highway Act. The award amount was decided treating the



land as agricultural land and compensation was received by the petitioner.

4. Contention of the petitioner is that the acquired land was commercial land. Hence, he is entitled for enhanced rate of compensation and for that purpose representation of the petitioner at *Annexure 4* is pending before the competent Authority, on which no order has been passed up till now.

5. It is evident that the petitioner has got statutory remedy under Sub-section (5) of Section 3-G of the National Highway Act, 1956, to approach the Arbitrator, if the petitioner is aggrieved with the award decided by the competent Authority. Therefore, the petitioner has statutory remedy available under the law. Moreover, the writ Court cannot go into disputed question of fact whether the land is agricultural or commercial, nor can enter into appreciation of evidence. Therefore, this writ application stands *disposed of* with liberty to the petitioner to move before the Arbitrator. If the petitioner moves before the Arbitrator within six weeks from today, the limitation, if any, may be considered by the Arbitrator, considering the fact that this petitioner was bonafidely prosecuting the matter herein.

(Birendra Kumar, J)

abhishek/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

