

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.834 of 2018

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Mumtaz Ali, Son of Abdul Rahman, resident of Village- Karamnasa, Mauza-
Chajjopur, P.S.- Durgawati, District- Kaimur (Bhabua).

... .. Petitioner/s

Versus

1. The Union of India, through the Secretary, Department of Railway (Ministry of Railway), Rail Bhawan, New Delhi.
2. The Ministry of Railways, through the Chief Project Manager, Dedicated Freight Corridor Corporation of India Ltd., 5th Floor, Pragati Maidan Metro Station Building Complex, New Delhi- 110001.
3. The Assistant Project Manager, Dedicated Freight Corridor, Rail Project Mugalsarai, Sone Nagar Block, 2nd Floor, Swarn Complex Susuwahi, P.S.- Lanka, District- Varanasi (U.P.).
4. The State of Bihar, through Principal Secretary, Department of Revenue and Land Reform, Bihar, Patna.
5. The Commissioner-Cum- Arbitrator, Patna Division, Patna.
6. The District Magistrate-Cum- Collector, Kaimur (Bhabua).
7. The Competent Authority-Cum- District Land - Acquisition Officer, District- Kaimur (Bhabua).

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Kumar Sunil, Advocate
For the Respondent/s	:	Mr. Sajid Salim Khan-SC25
For the Respondents No.2 & 3	:	Mr. Anil Kumar Sinha, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT

Date : 10-09-2018

Heard learned counsel for the parties.

2. Counter affidavit has already been filed on behalf of respondent No.7, *the District Land Acquisition Officer, Kaimur (Bhabua)*, which is on the record.

3. Undisputed fact of this case is that the land of the petitioner was acquired under the Railways Act, 1989 for use of Dedicated Freight Corridor Project, Aurangabad. The details of the acquired land is mentioned in Para 1 of the writ application.



4. The claim of the petitioner is that in fact the land is of residential-cum-commercial nature, whereas the competent Authority has treated the same as agricultural land while deciding the payable compensation. The record reveals that the petitioner challenged the order of the competent Authority before the Arbitrator under Sub-section (6) of Section 20-F of the Railways Act, 1989.

5. By the impugned order dated 19.02.2016 contained in *Annexure 1*, the Arbitrator rejected the prayer of the petitioner in Arbitration Case No.15 of 2014.

6. Thereafter, this writ application has been preferred under Article 226 of the Constitution of India for quashment of the order contained in *Annexure 1*.

7. Sub-section (7) of Section 20-F provides that the provisions of Arbitration and Conciliation Act, 1996 is applicable in every arbitration under the Act. Further, under Section 34 of the Arbitration and Conciliation Act, 1996 there is provision to challenge the award of the Arbitrator before the court. Therefore, apparently the petitioner has got statutory remedy. Moreover, the writ Court cannot go into the disputed question of fact as to whether the land is residential or commercial, nor the writ Court can enter into appreciation of evidence in this regard. Hence, this



writ application is *devoid of any merit*. Accordingly, it stands *disposed of* with liberty to the petitioner to approach the appropriate forum under Section 34 of the Arbitration and Conciliation Act, 1996, if so advised within the time of limitation, which shall be counted from the date of this order.

(Birendra Kumar, J)

abhishek/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

