

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1282 of 2018

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1. Dilip Kumar @ Dilip Kumar Gupta, Son of Late Hira Lal Gupta
 2. Pradeep Kumar, Son of Late Hira Lal Gupta
 3. Sanjeet Kumar Gupta, Son of Late Hira Lal Gupta,
 4. Ajit Kumar Gupta, Son of Late Hira Lal Gupta, All are 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

For the Respondent/s : Mr. RISHI RAJ SINHA -SC19

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 11-09-2018

A counter affidavit has been filed on behalf of
respondent no. 7.

2. Heard learned counsel for the parties.



3. This writ application has been preferred, under Article 226 of the Constitution of India, for a direction to the respondent-authorities to treat the acquired land bearing Plot No. 5, under Khata No. 7, Area 0.2022 Hectare in Mauza Chajjopur, Police Station Durgawati, District Kaimur which was acquired for construction of Dedicated Freight Corridor Project under the Railways Act, 1989 as commercial land which has wrongly been treated as residential land by the competent authority. Further prayer is for quashment of the order dated 19.02.2016 passed by the Arbitrator in Arbitration Case No. 16 of 2014, Annexure-1 whereby claim of the petitioners has been rejected.

4. The claim of the petitioners 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 petitioners challenged the order of the competent Authority before the Arbitrator under sub-section (6) of Section 20-F of the Railways Act, 1989.

5. Sub-section 7 of Section 20-F of the Railways Act, 1989 provides that the provisions of the 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 petitioners have 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 petitioners 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)

Kundan/-

AFR/NAFR	N.A.
CAV DATE	N.A.
Uploading Date	13.09.2018
Transmission Date	N.A.

