IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1179 of 2018

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1. Prasidh Narayan Singh, Son of Late Harihar Singh, Resident of Village+P.O.-Urdina, P.S.-Barun, District-Aurangabad.

.... Petitioner/s

Versus

1. The State of Bihar
2. The District Magistrate, Aurangabad.
3. The Land Reforms Deputy Collector, Aurangabad.
4. The Land Aquisition Officer, Aurangabad.
5. The Arbitrator-Cum-The Additional Collector Aurangabad.
6. The Project Director, N.H.-2, Varanasi Zone (U.P.)
7. The Circle Officer, Barun (Aurangabad)
8. The Anchal Amin, Barun (Aurangabad).
9. The Commissioner of Income Tax (TDS), C.R. Building, II Floor, Birchand Patel Marg. Patna.

.... Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Shailesh Kumar Singh, Advocate
For the Respondent/s	:	Md. Khurshid Alam, AAG-12 Mr. Asif Kalim, AC to AAG-12 Smt. Archana Sahi, Advocate Mr. Alok Kumar, Advocate Mr. Sanjeev Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 11-09-2018

Heard learned counsel for the parties.

Undisputed fact of this case is that land of the petitioner was acquired under the provisions of National Highways Act, 1956. The acquired land were Plot No.575 under Khata No.37, area 243 Squire Meter and Plot No.576 under Khata No.4, area 162 Squire Meter. Total 405 Squire Meter in village-Pritampur, Circle Barun, District- Aurangabad.

The Competent Authority decided compensation treating 172 Squire Meter as residential and 233 Squire Meter as commercial. The order of the competent authority was challenged by the petitioner before the Arbitrator in Land Acquisition Case No.20 of 2015-16. By the impugned order dated 02.08.2017, the Arbitrator has concluded that entire 405 Squire Meter of land was commercial one. Hence, the competent authority was directed to decide the compensation amount treating the aforesaid land as commercial land.

The National Highway Authority of India has challenged the Award aforesaid under Section 34 of the Arbitration and Conciliation Act, 1996, before the District Judge, Aurangabad, in Civil Miscellaneous Application No.60 of 2017 wherein the petitioner is Opposite Party No.1.

The present writ application, under Article 226 of the Constitution of India, has been preferred for quashment of the aforesaid order of the Arbitrator dated 02.08.2017 in L.A. Case No.20 of 2015-16. Further prayer is that the respondent competent authority be directed not to deduct income tax at the time of payment of Award. Third prayer is for a direction for enhancement of the Award on the basis of the sale-deed produced by the petitioner.

Relief No.1 regarding quashment of order dated 02.08.2017 passed by the Arbitrator cannot be granted in this writ application in view of the statutory remedy under Section 34 of the Arbitration and Conciliation Act, 1996. Moreover, the National Highway Authority of India has already moved the competent Court, under Section 34 of the Arbitration and Conciliation Act, 1996, against the impugned order and the petitioner is one of the Opposite Party thereat. The prayer for a command to the respondents to not deduct income tax from the compensation amount is not acceptable in this writ jurisdiction for the reason that other statutory remedy is already there with the petitioner. Likewise, pendency of the matter before competent forum prevails upon this Court to consider the prayer for direction to the authority to enhance the compensation amount.

In the result, this writ application is devoid of any merit. Accordingly, it stands dismissed.

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	
CAV DATE	NA
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Transmission Date	