

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1375 of 2019

1. Asha Singh W/o of Arun Singh
2. Arun Kumar Singh @ Arun Singh S/o Raj Kumar Singh
Both Permanent resident of Village-Satyendra Nagar, P.S.Aurangabad,
Dist.Aurangabad

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Department of Land reforms and revenue, Govt. of Bihar, Patna (Bihar)
2. The District Magistrate, Aurangabad
3. The Additional Collector cum Arbitrator, Aurangabad
4. The Deputy Collector Land Reform, Cum the Competent authority, Aurangabad
5. The Chief General Manager National High Way II, Aurangabad
6. The Project Director, P.I.U., N.H.A.I., Varanasi

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Anirudh Kumar Verma
For the State	:	Mr. Rishi Raj Sinha (Sc19)
		Mr. Saurabh Kumar, AC to SC 19
For the NHAI	:	Mr. S. N. Pathak, S.C.

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

2 23-01-2019 The petitioner has put to challenge an order, dated 03.07.2017, passed in L. A. Case No. 29 of 2017, by the Arbitrator -cum- Additional Collector, Aurangabad, whereby a petition filed by the petitioner, under sub-Section (5) of Section 3-G of the National Highway Act, 1956, has been rejected.

At the very outset, a preliminary objection has been taken on behalf of the National Highway Authority over maintainability of the writ application, under Article 226 of the Constitution of India, against the impugned award made by the



Arbitrator. Reliance has been placed in support of the said preliminary objection, on a Division Bench decision of this Court, in the case of **The Project Director, National Highway Authority Araria at Purnea, Bihar and Another v. Md. Gufran Alam and Others**, reported in **2014 (1) PLJR 207**. This Court, considering various provisions of the National Highway Act, 1956, and the Arbitration and Conciliation Act, 1996, has clearly held, in paragraphs 9 and 10, as follows:-

“9. As recorded hereinabove, the proceedings before the Arbitrator are governed by the Act of 1996. Section 34 of the Act of 1996 provides for a remedy against the arbitral award by an application for setting aside the arbitral award before the Court. The "Court" is defined under Clause (e) of sub-section (1) of Section 2 of the Act of 1996 to mean, "the principal civil Court of original jurisdiction in a district, and includes the High Court in exercise of its ordinary original civil jurisdiction, having jurisdiction to decide the questions forming the subject-matter of the arbitration if the same had been the subject-matter of a suit, but does not include any civil Court of a grade inferior to such principal Civil Court, or any Court of Small Causes." Hence, it is evident that the remedy against the arbitral award lies before the civil Court. Section 36 of the Act of 1996 provides for



enforcement of the arbitral award under the Code of Civil Procedure, 1908 in the same manner as if it were a decree of the Court. Thus, the statutory remedy for enforcement of the arbitral award made under Section 3-G(5) of the Act of 1956 lies before the civil Court.

10. In view of the statutory remedy for execution of the arbitral award being available, a petition under Article 226 of the Constitution would not lie. The learned single Judge has erred in entertaining the writ petition under Article 226 of the Constitution in the subject matter.”

In view of the law as discussed in the case of **Md. Gufran Alam** (supra), this writ application cannot be maintained and is accordingly dismissed.

It is, however, clarified that dismissal of the writ petition will not come in the way of the writ petitioner from availing statutory remedy, as available under the Arbitration and Conciliation Act, 1996.

(Chakradhari Sharan Singh, J.)

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