

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****WA No. 91 of 2018**

- Surendra Kumar Chhabda S/o S/o Shri Haveli Ram Chhabda Aged About 65 Years R/o Raipur Road Bemetara, Thana And Tahsil Bemetara, District Bemetara (Chhattisgarh)

---- Appellant**Versus**

1. State Of Chhattisgarh Through The Secretary, Revenue And Disaster Management Department, Mahanadi Bhawan, New Raipur, Thana And District Raipur (Chhattisgarh)
2. The Additional Commissioner, Durg Commissioner Durg Thana And District Durg Chhattisgarh
3. The Collector, Collectorate Bemetara, Thana And District Bemetara (Chhattisgarh)
4. The Sub Divisional Officer Cum Competent Authority Land Acquisition, Acquisition Officer, Tahsil Bemetara, District Bemetara (Chhattisgarh)
5. The Chief Engineer, Public Works Department Of National Highway Of State Of Chhattisgarh, National Highway Zone, Raipur, Thana And Tahsil Raipur, District Raipur Chhattisgarh.
6. Union Of India, Through The Secretary, Ministry Of Road Transport And Highways NHDP IV A Cell, Transport Bhawan- 1, Parliament Street, New Delhi

---- Respondent

For Appellant	Mr. Arvind Dubey, Advocate
For Respondent /State	Mr. Siddharth Dubey, Dy. GA

**DB.:Hon'ble Mr. Prashant Kumar Mishra, Ag. C.J. &
Hon'ble Mr. Parth Prateem Sahu, J.**

Order On Board By**Prashant Kumar Mishra, Ag. C.J.**

5/4/2019

1. Heard.
2. Challenging the award passed by the Arbitrator appointed under Section 3G(5) of the National Highways Act, 1956, the petitioner/appellant preferred the writ petition, which has been dismissed by the learned Single Judge on the ground that to challenge an award, the appellant has the remedy of moving an application under Section 34(2) of the Arbitration and Conciliation Act, 1996 (in short "the Act, 1996").
3. Mr. Arvind Dubey, learned counsel for the appellant, would submit that in the arbitration proceedings, the appellant was not arrayed and was, thus, not afforded opportunity of hearing, therefore, the award dated 15.5.2017 is a nullity. He would also submit that the subsequent order passed by the Land Acquisition Officer dated 28.12.2017 being a result of the order passed in violation of principles of natural justice, the same is also a nullity as the very existence of this order would lie in the shape of the order passed by the Arbitrator on 15.5.2017.
4. According to Mr. Dubey, the petitioner has already preferred an appeal under Section 34(2) of the Act, 1996 before the concerned District Judge.
5. In view of the pendency of appeal under Section 34(2) of the Act, 1996, at the instance of the petitioner, we are not inclined to decide the appeal on merits.

6. It will remain open for the appellant to raise all questions, both factual and legal, before the concerned District Judge, who shall decide the appeal on its own merits.
7. The writ appeal is disposed of.

Sd/-

(Prashant Kumar Mishra)
Acting Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge