

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****WPC No. 1850 of 2019**

- Shafi Mohammad S/o Umerdaraz Aged About 60 Years R/o Ward No. 07, Village Tahsil Simga, District Balodabazar Bhatapara, Chhattisgarh

---- Petitioner**Versus**

1. Government Of India Ministry Of Road Transport And Highways, Department Of Road, Transport And Highways, Transport Bhawan, -1, Parliament Street, New Delhi -75
2. National Highways Authority Of India Through Project Director, Project Implementation Unit Raipur District Raipur Chhattisgarh
3. Additional Collector / Arbitrator, Balodabazar Bhatapara, District Balodabazar Bhatapara Chhattisgarh
4. Sub Divisional Officer (Revenue) And Competent Authority Under The National Highways Act 1956 And Land Acquisition Officer Simga District Balodabazar Bhatapara Chhattisgarh

---- Respondent**WPC No. 1874 of 2019**

- Anusuiya Sonker, aged about 40 years, D/o Ledga Sonker, Through its Power of Attorney Holder Rajaram Sonker, Age 48 years, S/o Guhan Sonker, R/o Ward No.02, Village Tahsil Simga, District Baloda Bazar-Bhatapara (CG)

---- Petitioner**Versus**

1. Government Of India Ministry Of Road Transport And Highways, Department Of Road, Transport And Highways, Transport Bhawan -1, Parliament Street, New Delhi -75
2. National Highways Authority Of India Through Project Director, Project Implementation Unit Raipur District Raipur Chhattisgarh

WPC No. 1850 of 2019**and other connected petitions**

3. Additional Collector / Arbitrator, Balodabazar Bhatapara, District Balodabazar Bhatapara Chhattisgarh
4. Sub Divisional Officer (Revenue) And Competent Authority Under The National Highways Act 1956 And Land Acquisition Officer Simga District Balodabazar Bhatapara Chhattisgarh

---- Respondent**WPC No. 1860 of 2019**

- Hola Ram Panjwani S/o Jamiyatmal Panjwani Aged About 70 Years Through Its Power Of Attorney Holder Chetan Das Panjwani, R/o Ward No.4, Village-Post-Baloda Bazar-Bhatapara Chhattisgarh

---- Petitioner**Versus**

1. Government Of India Ministry Of Road Transport And Highway Transport Bhawan 1 Parliament Street New Delhi- 75
2. National Highways Authority Of India Through Project Director, Project Implementation Unit, Raipur District Raipur Chhattisgarh
3. Additional Collector / Arbitrator, Balodabazar-Bhatapara, District Baloda Bazar-Bhatapara Chhattisgarh
4. Sub Divisional Officer (Rev) And Competent Authority Under The National Highways, Act, 1956 And Land Acquisition Officer, Simga District-Balodabazar Bhatapara Chhattisgarh

---- Respondent**WPC No. 1865 of 2019**

1. Janak Sonker S/o Baisakhu Sonker Aged About 42 Years
2. Om Prakash Sonker S/o Baisakhu Sonker Aged About 40 Years

Both R/o Ward No. 12, Village Post - Simga, District Baloda Bazar - Bhatapara Chhattisgarh

---- Petitioner

Versus

1. Government Of India Ministry Of Road Transport And Highways, Department Of Road Transport And Highways, Transport Bhawan-1, Parliament Street, New Delhi -75
2. National Highways Authority Of India Through Project Director, Project Implementation Unit Raipur, District Raipur Chhattisgarh
3. Additional Collector / Arbitrator, Balodabazar-Bhatapara Chhattisgarh
4. Sub Divisional Officer (Rev) And Competent Authority Under The National Highways, Act 1956 And Land Acquisition Officer, Simga, District Baloda Bazar - Bhatapara Chhattisgarh

---- Respondent**WPC No. 1882 of 2019**

1. Nand Kishore Bhosle S/o Gajpat Rao Maratha, Aged About 42 Years R/o Village - Tahsil - Simga, District - Baloda Bazar - Bhatapara Chhattisgarh
2. Smt. Nisha Morkhe, W/o Narayan Rao Morkhe Aged 51 Years R/o Nagpur, District - Nagpur, (Maharashtra)
3. Smt. Shashi Pawar W/o Subodh Pawar Aged 48 Years R/o Balod, Durg District - Durg Chhattisgarh
4. Smt. Manjula Gawande W/o Arun Rao , Aged 46 Years Chandrapur (Maharashtra)
5. Ku. Sanjula Bhosle D/o Gajpat Rao Maratha Aged 44 Years R/o Village - Tahsil - Simga, District - Baloda Bazar - Bhatapara Chhattisgarh
6. Ragini Bhosle D/o Gajpat Rao Maratha Aged 37 Years R/o Village - Tahsil - Simga District - Baloda Bazar - Bhatapara Chhattisgarh.
7. Smt. Anita Rani W/o Late Vishvaraj Singh Aged 62 Years R/o Motimahal, Kawardha, District - Kawardha Chhattisgarh.

(Petitioner No. 2 To 7 Through Its Power Of Attorney Holder
Petitioner No. 1, Nand Kishore Bhosle, Aged About 42 Years, S/o
Gajpat Rao Maratha, R/o Village - Tahsil - Simga, District - Baloda
Bazar - Bhatapara Chhattisgarh

---- Petitioner**Versus**

1. Government Of India Ministry Of Road Transport And Highways, Department Of Road Transport And Highways, Transport Bhawan - 1, Parliament Street, New Delhi - 75
2. National Highways Authority Of India, Through Project Director, Project Implementation Unit, Raipur, District - Raipur Chhattisgarh
3. Additional Collector / Arbitrator, Balodabazar - Bhatapara, District Baloda - Bazar - Bhatapara Chhattisgarh
4. Sub Divisional Officer (Rev) And Competent Authority Under The National Highways , Act , 1956 And Land Acquisition Officer, Simga, District - Balodabazar - Bhatapara Chhattisgarh.

---- Respondent**WPC No. 1885 of 2019**

Mehatrin Sonker, W/o Domra Sonkar (Dead) Through Her Legal Heirs:

1. Hariprasad Sonker S/o Domra Sonker Aged About 55 Years
2. Rameshwer Sonker S/o Late Shri Domra Sonker Aged About 60 Years
3. Ramkhilawan Sonker S/o Late Shri Domra Sonker Aged About 50 Years
4. Haldhar Sonker S/o Late Shri Domra Sonker Aged About 48 Years
5. Hemlal Sonker S/o Late Shri Domra Sonker Aged About 46 Years

Petitioners No.2 to 5 through Its Power Of Attorney Holder-
Petitioner No. 1 Hariprasad Sonker, Age About 55 Years, S/o
Late Shri Domra Sonker,

All R/o Ward No. 12, Village- Tahsil Simga, District Baloda Bazar-
Bhatapara Chhattisgarh.

---- Petitioner**Versus**

WPC No. 1850 of 2019**and other connected petitions**

1. Government Of India Ministry Of Road Transport And Highways, Department Of Road Transport And Highways, Transport Bhawan-1, Parliament Street New Delhi-75
2. National Highways Authority Of India Through Project Director, Project Implementation Unit, Raipur, District Raipur Chhattisgarh.
3. Additional Collector/ Arbitrator Balodabazar- Bhatapara, District Baloda- Bazar- Bhatapara Chhattisgarh
4. Sub Divisional Officer (Rev) And Competent Authority Under The National Highways, Act, 1956 And Land Acquisition Officer, Simga, District Balodabazar- Bhatapara Chhattisgarh

---- Respondent**WPC No. 1887 of 2019**

- Sunderlal S/o Hincharam Aged About 45 Years R/o Ward No. 12, Village Post Simga, District Baloda- Bazar Bhatapara Chhattisgarh

---- Petitioner**Versus**

1. Government Of India Ministry Of Road Transport And Highways, Department Of Road Transport And Highways, Transport Bhawan-1, Parliament Street New Delhi-75
2. National Highways Authority Of India Through Project Director, Project Implementation Unit, Raipur, District Raipur Chhattisgarh
3. Additional Collector / Arbitrator Balodabazar- Bhatapara, District Baloda Bazar- Bhatapara Chhattisgarh
4. Sub Divisional Officer (Rev) And Competent Authority Under The National Highways, Act 1956 And Land Acquisition Officer, Simga, District Balodabazar- Bhatapara Chhattisgarh

---- Respondent**WPC No. 1889 of 2019**

- Bhagwat Sonker S/o Late Shri Khorbahara Sonker Aged About

41 Years R/o Ward No. 11, Village Post Simga, District Baloda Bazar- Bhatapara Chhattisgarh

---- Petitioner

Versus

1. Government Of India Ministry Of Road Transport And Highways, Department Of Road Transport And Highways, Transport Bhawan-1, Parliament Street New Delhi-75
2. National Highways Authority Of India Through Project Director, Project Implementation Unit, Raipur, District Raipur Chhattisgarh
3. Additional Collector/ Arbitrator Balodabazar- Bhatapara, District Baloda Bazar- Bhatapara Chhattisgarh
4. Sub Divisional Officer (Revenue) And Competent Authority Under The National Highways, Act 1956 And Land Acquisition Officer, Simga, District Balodabazar- Bhatapara Chhattisgarh

---- Respondent

WPC No. 1930 of 2019

- Dhanush Kumar S/o Jeevan Lal Devangan Aged About 53 Years R/o Ward No. 12, Village - Post Simga, District Baloda Bazar - Bhatapara Chhattisgarh

---- Petitioner

Versus

1. Government Of India Ministry Of Road Transport And Highways, Department Of Road Transport And Highways, Transport Bhawan - 1, Parliament Street, New Delhi -75
2. National Highways Authority Of India Through Project Director, Project Implementation Unit, Raipur District Raipur Chhattisgarh
3. Additional Collector / Arbitrator Balodabazar-Bhatapara, District Balodabazar-Bhatapara Chhattisgarh.
4. Sub Divisional Officer (Rev) And Competent Authority Under The National Highways, Act 1956 And Land Acquisition Officer, Simga, District Balodabazar-Bhatapara Chhattisgarh

---- Respondent

For Petitioners	Mr. Yogesh Pandey, Advocate
For Respondents 1 & 2	Mr. B. Gopakumar, Assistant Solicitor General and Mr. Vaibhav P. Shukla, Advocate
For Respondent/State	Mr. Rajesh R. Singh, Dy. GA, Mr. Ashish Surana, Mr. Anmol Sharma, Mr. Sumit Singh and Mr. Aditya Bharadwaj, Panel Lawyers

Order On Board By**Hon'ble Mr. Justice Prashant Kumar Mishra****17/6/2019**

1. Heard.
2. Perusal of the papers available in the record would indicate that pursuant to the land acquisition award under the National Highways Act, 1956 (in short "the Act, 1956"), the petitioners moved arbitration proceedings before the Arbitrator appointed under Section 3 G (5). The Arbitrator i.e. the Additional Collector passed the award(s) on different dates refusing to enhance the award amount. Challenging this award of the Additional Collector, the petitioners moved before the District Judge, Baloda Bazar under Section 34 of the Arbitration and Conciliation Act, 1996 (in short "the Act, 1996"). By order(s) dated 17.5.2018, the District Judge partially allowed the appeals and remitted the matter back to the Arbitrator for making a fresh award.

3. After the remand order was passed by the District Judge, the Additional Collector, Baloda Bazar instead of passing fresh award either enhancing or refusing to enhance the amount of compensation, referred the matter to the Land Acquisition Officer for recalculating the award amount vide order dated 17.1.2019. The Land Acquisition Officer passed the impugned order on 3.5.2019 refusing to amend the original award thereby impliedly rejecting the petitioners' application for enhancement of the award amount.
4. The petitioners' counsel would contend that once the Arbitrator directed the Land Acquisition Officer to recalculate the amount of compensation admissible to the petitioners, the concerned SDO(R) committed serious error of law by not obeying the command of the Arbitrator.
5. Whether or not the SDO(R) should have followed the order passed by the Arbitrator or whether at the inception, the Arbitrator could have directed the Land Acquisition Officer to recalculate the amount of compensation is a matter to be seen by the Authority constituted under the Act, 1956 including the Arbitrator.
6. If the SDO(R) has failed to obey the order passed by the Additional Collector-cum-Arbitrator, the appropriate remedy for the petitioners under the Scheme of the Act, 1956 lies in moving before the concerned District Judge under Section 34 of the

Act, 1996. In matters arising out of the proceedings under the provisions of the Act, 1996, the writ petition would not be maintainable. The Act, 1996 read with the Act, 1956 is a self contained code for initiation and completion of arbitration proceeding for enhancement of award amount.

7. Let the petitioners move before the concerned District Judge under Section 34 of the Act, 1996 to assail the order(s) passed by the concerned SDO(R) as also the order(s) passed by the Arbitrator i.e. the concerned Additional Collector.
8. If an application under Section 34 is moved by the petitioners, wherein, the challenge is also thrown to the Additional Collector's order(s) dated 17.1.2019, the same shall be dealt with by the concerned District Judge on its own merits without raising the plea of limitation, provided the petitioners move before the District Judge within a period of 30 days from today.
9. The writ petitions are disposed of.

Sd/-

(Prashant Kumar Mishra)

Judge