

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 3969 OF 2019**

Shatrughan Sonker, age about 60 years, S/o Shri Bhakadu Sonker, through power of Attorney Holder Jeevrakhan Sonker, age about 55 Years, S/o Shri Bhakadu Sonker, R/o Ward No. 11, Village Post Simga District Baloda bazar Bhatapara

---- Petitioner

Versus

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

-----Respondents

For Petitioner	: Mr. Sunil Sahu, Advocate
For State	: Mr. Anshuman Shrivastava, P.L.
For Respondents No. 1 & 2	: Mr. B.Gopa Kumar, Advocate.

Hon'ble Shri Justice P. Sam Koshy**Order on Board**

08.11.2019

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 petitioner/s moved arbitration proceedings before the Arbitrator appointed under Section 3 G(5). The Arbitrator i.e. the Additional Collector passed the award on different dates refusing to enhance the award amount. Challenging this award of the Additional Collector, the petitioner/s moved before the District Judge, Baloda Bazar under Section 34 of the Arbitration and Conciliation Act, 1996 (in short "the Act, 1996"). By order dated

17.05.2018, 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 17.01.2019. The Land Acquisition Officer passed the impugned order on 13.09.2019 refusing to amend the original award thereby impliedly rejecting the petitioner's application for enhancement of the award amount.
4. The counsel for the petitioner would contend that once the Arbitrator directed the Land Acquisition Officer to recalculate the amount of compensation admissible to the petitioner/s, 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 petitioner/s 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 petitioner/s move before the concerned District Judge under Section 34 of the Act, 1996 to assail the order passed by the concerned SDO(R) as also the order passed by the Arbitrator i.e. the concerned Additional Collector.
8. If an application under Section 34 is moved by the petitioner/s wherein, the challenge is also thrown to the Additional Collector's 17.01.2019, the same shall be dealt with by the concerned District Judge on its own merits without raising the plea of limitation, provided the petitioner/s move before the District Judge within a period of 30 days from today.
9. The writ petition stands disposed of.

Sd/-

(P. Sam Koshy)
Judge

Jyotijha