

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR.

Writ Petition No.5506 of 2018
(Ravindra Fulchand Daftari and others .vs. National Highway Authority of India and another.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions Court's or Judge's orders.
and Registrar's orders

Mr. J.H. Kothari, Advocate for Petitioners.
Mr. K.L. Dharmadhikari, AGP for Respondent No.2.

CORAM : Manish Pitale, J.
DATED : April 24, 2019.

By this writ petition, the petitioners have challenged award dated 16.01.2018 passed by the respondent no.2- Land Acquisition Officer and Competent Authority in respect of acquisition of lands of the petitioners under the provisions of the National Highways Act, 1956. A perusal of the prayer clause of the writ petition shows that the petitioners have sought quashing and setting aside of the award dated 16.01.2018 passed by the respondent no.2 and a direction to the said respondent to redetermine the value of the land of the petitioners that stood acquired. The principal contention raised on behalf of the petitioners is that the market value of the land determined by the respondent no.2 was incorrect because the ready reckoner was not even taken into consideration and the fact that the land was situated near a National Highway was also not considered while determining the quantum of compensation.

2. The tenor of arguments and contentions raised on behalf of the petitioners shows that the petitioners are aggrieved by the determination of compensation by the respondent no.2 under the provisions of the said Act. In this context, a preliminary objection is raised on behalf of the respondents to the effect that the petitioners have a remedy available under Section 3-G(5) of the aforesaid Act, to move an application for the amount of compensation to be determined by the Arbitrator appointed by the Central Government under the provisions of the said Act. A perusal of Section 3-G(5) of the aforesaid Act shows that if the amount determined by the respondent no.2 (Competent Authority) is not acceptable to either of the parties (including the petitioners herein), they can apply to the Arbitrator for determination of the amount. Section 3-G(7) specifies the aspects that are required to be taken into consideration by the Arbitrator while determining the amount of compensation. Clause (a) of Section 3-G(7) of the Act specifically provides that the Arbitrator while undertaking the said exercise, shall take into consideration the market value of the land on the date of publication of notification under Section 3-A of the Act. This demonstrates that the petitioners can very well agitate their grievance before the Arbitrator by, *inter alia*, relying upon the ready reckoner rate, to claim enhanced compensation.

3. In view of the above, this Court is of the opinion that the present writ petition cannot be entertained as the petitioners can very well exhaust the

remedy provided under Section 3-G(5) of the aforesaid act. Accordingly, the present writ petition is dismissed with liberty to the petitioners to approach the Arbitrator under Section 3-G(5) of the aforesaid Act. If such an application under the aforesaid provision is moved by the petitioners, it shall be considered and decided in accordance with law.

JUDGE

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