

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 9508 of 2020

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Alkariya Devi, aged about 64 years, female, Wife of Rambali Mahto @
Rambali Prasad, permanent resident of Village- Kasauti, P.S.- Kutumba,
District- Aurangabad and at present resident of Village and P.O.- Dadhpi, P.S.-
Madanpur, District- Aurangabad and at present residing at P.O.- Maheshpur,
P.S.- Madhuban, Kharkhari, Dhanbad, Jharkhand.

... .. Petitioner/s

Versus

1. The Union of India through Chief Secretary, Road Transport and Highway
Department, New Delhi.
2. The State of Bihar through the District Magistrate, Aurangabad.
3. The Additional Collector, Aurangabad.
4. The D.C.L.R., Aurangabad.
5. The Circle Officer, Kutumba Block, Aurangabad.
6. The Regional Director of National Highways Authority of India, Patna.
7. The Project Director of National Highways Authority of India, Aurangabad.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Yugal Kishore, Advocate
For the State	:	None

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**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH**

ORAL JUDGMENT

Date : 30-01-2021

The matter has been heard *via* video conferencing.

2. Heard Mr. Yugal Kishore, learned counsel for the
petitioner. Nobody appears on behalf of respondents.

3. The petitioner has moved the Court for the following
reliefs:



“That this is an application for issuance of a writ in the nature of Mandamus or an appropriate writ for directing the respondent to consider the representation dated 30/9/2020, which has been sent to district magistrate (respondent no. 3) on 1/10/2020 through registered post & through this representation the petitioner requested the respondent no. 3 to pay her appropriate compensation amount for land bearing khata no. 415, khesra no. 1543, Area 121 square meter which has been acquired for construction of 6 lane of NH-2 & also requested the respondents to pay her appropriate compensation amount for her land on the basis of compensation paid to Karu Mahto case and/or pass such other order or direction for which the petitioner is found legally entitled in the facts and circumstances of the case.”

4. The contention of learned counsel for the petitioner is that for her lands which was acquired along with the lands of others, by the National Highways Authority of India, she had been paid much lesser compensation as compared to what has been paid for the adjoining lands to various other persons. Specific instance has been given with regard to one Karu Mahto whose land bears the same *khata* and *khesra* number.

5. After some arguments, learned counsel for the petitioner submitted that he may be permitted to move the Arbitrator under Section 3G of the National Highways Act, 1956 (hereinafter referred to as the ‘Act’), for re-fixation of his compensation. Learned counsel submitted that as the present writ application has been filed *bona fide*, if there is any fixed time



period for approaching the Arbitrator, the Court may exercise its jurisdiction and discretion and direct the Arbitrator to consider the issue on merits and not reject it simply on the ground of limitation.

6. Having regard to the aforesaid, as the petitioner *prima facie* has made out a case, inasmuch as, she claims that the adjoining land has been acquired on a much higher valuation as compared to that of the petitioner, in the considered opinion of the Court, a case for exercising jurisdiction for waiving of limitation for moving before the Arbitrator under the Act, if any, is required to be made.

7. Accordingly, the writ petition stands disposed off with liberty to the petitioner to move before the Arbitrator under the Act, in accordance with law, for seeking higher compensation based on discrimination that for the adjacent lands, a much higher rate has been paid by the authorities.

8. If the petitioner moves before the Arbitrator under the Act in the matter within four weeks from today, along with a copy of this order, the Arbitrator shall consider the matter, in accordance with law, on merits and pass appropriate orders thereupon. It is expected that the Arbitrator would expeditiously decide the matter



and, in any case, latest within two months from the date of the petitioner moving before him.

(Ahsanuddin Amanullah, J.)

P. Kumar

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