

HIGH COURT OF CHHATTISGARH, BILASPUR

REVP No. 97 of 2021

National Highway Authority Of India, Through Project Director, Project Implementation Unit, Bilaspur, District Bilaspur, Chhattisgarh.

---- **Petitioner**

Versus

1. Rajesh Kumar Soni, S/o. Shri K.L. Soni, Aged About 54 Years, R/o. Khaparganj, Bilaspur, District Bilaspur, Chhattisgarh.
2. State Of Chhattisgarh, Through Secretary, Revenue Department, Mahanadi Bhawan, Atal Nagar, New Raipur Chhattisgarh.
3. The District Collector, District Bilaspur Chhattisgarh.
4. The Sub Divisional Officer (Revenue) Cum Prescribed Authority Land Acquisition Bilaspur, District Bilaspur Chhattisgarh.

---- **Respondents**

For Petitioner	:	Mr. P.K.Bhaduri, Advocate
For State	:	Mrs. Richa Shukla, Dy. Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

ORDER

30.06.2021

Heard.

1. The review of the order dated 11.02.2021 has been sought for, which is passed in WPC No.665 of 2021 (Annexure A-1). The order dated 11.02.2021 reads as under :

“1. Learned counsel for the petitioner submits that the petitioner may be given a liberty to execute the award passed in favour of the petitioner to get it executed as a decree of the Civil Court as per Section 36 of the Arbitration & Conciliation Act, 1996 (hereinafter referred to 'the Act 1996').

2. In view of such submission, since the award is passed under Sub-Section 6 of Section 3G of the National Highways Act 1956 and provisions of the Arbitration & Conciliation Act 1996 applicable, therefore, as per Section 36 of the Act 1996, the award would be executable before

the competent Court.

3. In view of the submission made by the counsel, the writ petition finally stands disposed off.”

2. Learned counsel for the petitioner would submit that the petitioner against the award has preferred an appeal under Section 34 of the Arbitration & Conciliation Act, 1996 as per Annexure A-3 and this fact was not brought before the Court while the order was passed. Therefore, when the appeal is already pending, the execution of the award is naturally required to be kept in abeyance. He would submit that the judgment on which the award was passed has been stayed by the Supreme Court. Therefore, the order dated 11.02.2021 is required to be recalled or modified.
3. Reading of the order dated 11.02.2021 only purports that the award when is passed how it is executable before the Court of law. If the petitioner is aggrieved with the award, which is initially passed cannot be executed and has already filed an appeal before the competent Court under Section 34 of the Arbitration & Conciliation Act, 1996 then in such eventuality it can not be presumed to be stay of award. It is for the Court which is hearing the appeal under Section 34 against the award to adjudicate and may pass the interim order also. Simply because the award is under challenge, the presumption of stay of it cannot be drawn.
4. The Supreme Court in the recent judgment passed on 03.11.2020 in Civil Appeal No.3601 of 2020 in case of *Shri Ram Sahu (Dead) Through LRs v. Vinod Kumar Rawat & Ors.* has laid down that the judgment should be open to review inter alia if there is a mistake is apparent on the face of the record. An error which is not self-evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of the record justifying the court to exercise its power of review under Order 47 Rule 1 CPC. In exercise of the jurisdiction under Order 47 Rule

1 CPC it is not permissible for an erroneous decision to be 'reheard and corrected'. It further held that there is a clear distinction between an erroneous decision and an error apparent on the face of the record. While the first can be corrected by the higher forum, the latter only can be corrected by exercise of the review jurisdiction. A review petition has a limited purpose and cannot be allowed to be 'an appeal in disguise'.

5. Applying the aforesaid principles and after going through the order dated 11.02.2021 to unsettle the order, almost re-hearing would be required in guise of appeal. In facts of the case, I am not inclined to entertain this petition for review. Accordingly, it is dismissed. The petitioner, if so advised, may file an interim application before the appellate Court where the appeal is pending and the Court may without being influenced by any order passed by this Court may adjudicate the same.

Sd/-
(Goutam Bhaduri)
Judge

Aks