

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9231 of 2020

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Gopal Prasad son of Dwarika Prasad resident of Mahabir Bhawan, 2nd Floor,
D.M. Kothi Road, Ara, Police Station- Ara (T), District- Bhojpur.

... .. Petitioner/s

Versus

1. The State of Bihar through Secretary, Department of Land Revenue,
Government of Bihar, Patna.
2. The District Magistrate, Bhojpur at Ara.
3. The Competent Authority cum District Land Acquisition Officer, Bhojpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Sanjay Kumar, Adv.
For the State	:	Mr. Rishi Raj Sinha, SC-19
		Mrs. Archana Prasad, AC to SC-19

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**CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH
SHARMA**

ORAL ORDER

2 21-04-2022 Heard the parties.

The case is being taken up from defect
side.

Learned counsel for the petitioner is
directed to submit the original petition along with
attested affidavits and also remove all the defects
pointed out by the Registry within two weeks from
today.

The Petitioner by way of this writ has
prayed as under:-

“That this is an application for
issuance of an appropriate writ and/or



order and/or direction commanding the respondents to pay compensation to the petitioner whose land has been acquired by the Government of Bihar for widening the N.H.84 (Ara Buxar Road) treating the nature of land as commercial land. The sale deed in favour of the petitioner executed in the year 2007 describes as commercial land. The respondents have paid the compensation treating the nature of land as agriculture land. The description of land is as follows:-

Mauza- Amraie, Thana No. 90, Khata No. 379, Khesra No. 2074, Area 34 dec.”

The provisions of Section 3-G. of The National Highways Act, 1956, Sub Clause 5, 6 and 7 are as under:-

“(5) If the amount determined by the competent authority under Sub-section (1) or



sub-section (2) is not acceptable to either of the parties, the amount shall, on an application by either of the parties, be determined by the arbitrator to be appointed by the Central Government.

(6) Subject to the provisions of this Act, the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996) shall apply to every arbitration under this Act.

(7) The competent authority or the arbitrator while determining the amount under sub-section (1) or sub-section (5), as the case may be, shall take into consideration-

(a) the market value of the land on the date of publication of the notification under section 3-A;

(b) the damage, if any, sustained by the person interested at the time of taking possession of



the land, by reason of the severing of such land from other land;

(c) the damage, if any, sustained by the person interested at the time of taking possession of the land, by reason of the acquisition injuriously affecting his other immovable property in any manner, or his earnings;

(d) if, in consequences of the acquisition of the land, the person interested is compelled to change his residence or place of business, the reasonable expenses, if any, incidental to such change.”

The National Highway Authority of India
Vrs. Sayedabad Tea Company Ltd. And Ors. In Civil
Appeal No(s). 6958-6959 of 2009 decided by the
Hon’ble Supreme Court on 27th August, 2019, the
Supreme Court has observed in para 16 as under:-

16. We are in full agreement



with the legal position stated by a two Judge Bench of this Court in General Manager (Project), National Highways and Infrastructure Development Corporation Ltd. Case (supra) but like to add further that the Act, 1956 has been enacted under Entry 23 of the Union List of the Seventh Schedule of the Constitution with the exclusive power to legislate with respect to highways, which are declared to be national highways by or under law by the Parliament. It is a comprehensive code and a special enactment which provides as inbuilt mechanism not only in initiating acquisition until culmination of the proceedings in determining the compensation and its adjudication by the Arbitrator to be appointed by the Central Government and if still



remain dissatisfied, by the Court of law.”

In view of the above provisions, remedy lies to a person, who is aggrieved regrading quantum of compensation awarded by the Land Acquisition Officer, where the land has been acquired for under the National Highways Act.

Accordingly, the petitioner would be well advised to take up the remedy as provided therein. Since the remedy is of statutory in nature, the writ petition directly challenging the award on the ground of insufficient compensation, would not be maintainable.

Accordingly, this writ petition is dismissed with liberty to take up the matter before the concerned authority as provided under section as above.

(Sanjeev Prakash Sharma, J)

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