

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.545 of 2021

In
Civil Writ Jurisdiction Case No.15006 of 2019

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Ghanshyam Singh @ Ghanshyam Prasad Singh Son of Late Krishna Singh,
Resident of Village - Malkauli, Ward No. 1, P.S. - Bahaga, District - West
Champaran.

... .. Appellant/s

Versus

1. Union of India through its Principal Secretary, Road Construction Department, New Delhi.
2. The State of Bihar, Through Principal Secretary, Road Construction Department, Vishwsharaiya Bhawan, Baily Road, Patna.
3. The Engineer in Chief, National Highways Division, Vishawsharaiya Bhawan, Bailey Road, Patna.
4. The Chief Engineer, Road Construction Division, North Wingh Vishawsharaiya Bhawan Bailey Road Patna, Bihar, Patna.
5. The Superintending Engineer, National Highways, N.H. Circle, Muzaffarpur.
6. The Executive Engineer, N.H. Division, Motihari.
7. The Assistant Engineer, N.H. Division, Motihari.
8. The Junior Engineer, N.H. Division Motihari.
9. The District Magistrate, Bettiah, West Champaran.
10. The S.D.M., Bagaha, West Champaran.
11. The Circle Officer, Bagaha-2, West Champaran.
12. The District Land Acquisition Officer, Bettiah, West Champaran.

... .. Respondent/s

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Appearance :

For the Appellant	:	Mr. Baxi S.R.P. Sinha, Senior Advocate Mr. Suresh Prasad Sharma, Advocate Mr. Mrigendra Pratap Singh, Advocate
For the UOI	:	Dr. Krishna Nandan Singh, ASGI
	:	Mr. Radhika Raman, CGC
For the State	:	Mr. Dinesh Maharaj, AC to AAG-11

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

and

HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 12-04-2022



Heard Mr. Baxi S.R.P. Sinha, learned Senior Advocate for the appellant and Dr. Krishna Nandan Singh, learned Additional Solicitor General for the Union of India.

2. At the request of Dr. Singh, the Ministry of Road, Transport and Highways through Regional Office at Patna is impleaded as party respondent. Necessary amendment in the cause title shall be carried out by the Registry within a period of two days. Dr. Singh accepts notice on behalf of the newly added respondent/Ministry of Road, Transport and Highways.

3. The appellant has challenged the order dated 21.08.2021, passed by the learned Single Judge in CWJC No.15006 of 2019 thereby rejecting the request of the appellant for directing the respondents to make necessary changes in the construction of overbridge on National Highway 28B and construct the overbridge according to the original place which has unnecessarily been shifted somewhat towards East and, therefore, part of the land belonging to the appellant is now being used for such construction.

4. The appellant is the land holder of the land in question about which a notification had been issued under 3A of the National Highways Act, 1956. The aforesaid notification was issued on 06.03.2019 and the appellant was noticed for any



objection with respect to the aforesaid decision and was asked to represent on or before 17.05.2019. The appellant responded to the aforesaid notice and objected to the plan with respect to the design and the alignment of the bridge on 16.05.2019, which according to the appellant was never adverted to. Without disposing of the objections of the appellant, the declaration of acquisition was made under Section 3D of the National Highways Act, 1956. Much later thereafter, the objection of the appellant, referred to above, was disposed of by a perfunctory order dated 05.03.2021.

5. The appellant had canvassed before the learned Single Judge that without disposing of his objection, the notification of declaration of acquisition under 3D of the National Highways Act, 1956, could not have been issued.

6. The Central Government is empowered to acquire land for public purposes for building, maintenance, management or operation of a National Highway for which it is required to declare its intention to acquire such land; which intention is to be made only after appropriate inspection, survey, measurement and enquiry regarding valuation of the land as also the quality of the soil and sub-soil of such land. Under Section 3C of the Act, any person interested in the land would be within his rights to object to the use of the land for the avowed purpose within 21 days of the



date of publication of such notice regarding the intent to acquire such land.

7. The objection, referred to above, is to be heard by the competent authority, either in person or by legal practitioner and has to be disposed of either allowing or disallowing such objections. Only thereafter, the declaration of acquisition under Section 3D is to be taken out by virtue of which the land gets vested in the Central Government.

8. As noted above, the objection of the appellant was not disposed of before the declaration of the acquisition under Section 3D.

9. In our respectful opinion, the learned Single Judge appears to have focused more on the issue whether personal hearing was granted to the appellant/objector or not. That the objections were heard was found out by the learned Single Judge on the sole ground that on one of the dates when the matter was to be heard, an adjournment was sought on behalf of the appellant and thereafter another date was fixed. This was considered to be an evidence towards the assertion of the respondent that the objections of the appellant were heard.



10. We find that the order by the competent authority disallowing the objections of the appellant was passed only after the notification under Section 3D of the Act was issued.

11. We do not consider it to be an appropriate procedure for disposing of the objections specially when it relates to the very wisdom of selecting such land which would, in the opinion of the objector, not be profitable to acquire and that also when the original plan lay westwards than what is now being carried out.

12. We had called upon Dr. K.N. Singh, learned Additional Solicitor General who found out with the National Highway authorities and the Ministry of Road, Transport and Highways that the work has proceeded to the extent that a concessionaire has been selected who has mobilized the resources towards the work. Under such circumstances, Dr. Singh submits that any delay would put the concessionaire in a disadvantageous position with financial implications on the Central Government as the work is to be completed within a stipulated period of time.

13. Be that as it may, Dr. Singh has no categorical answer to the poser that the declaration of notification ought not to have been issued without disposing of the objections of the appellant first.



14. We, therefore, direct that before proceeding with the work any further, the objection of the appellant, which he shall filed afresh within a period of seven days, to be counted from 13.04.2022, shall be disposed of by the competent authority within a further period of 21 days and the result of such deliberation shall be communicated to the appellant forthwith. The process shall not be forestalled even for a day thereafter. In case the objections of the appellant are sustained, necessary consequences would follow. To that extent, the order of the learned Single Judge is modified and this appeal stands disposed off with the aforesaid observations and directions.

(Ashutosh Kumar, J.)

(Anjani Kumar Sharan, J.)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.04.2022
Transmission Date	NA

