

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16239 of 2015

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Prem Lata Devi W/o Late Vidya Prasad, R/o Village- Manpur, P.O.P.S.-
Dighwara, Dist- Saran. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Chief Secretary, the Govt. of Bihar, Patna.
3. The Principal Secretary, Revenue and Land Reforms Department, Govt. of Bihar, Patna.
4. The Collector-cum District Magistrate, Saran at Chapra.
5. The District Land Acquisition Officer, Saran at Chapra.
6. The Circle Officer, Block Dariyapur, Dist- Saran.
7. National Highways Authority of India through its Project Director, Chapra.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Rajkumar Rajesh, Advocate Rajiv Kr Singh, Advocate
For the State	:	Sawesh Kr Singh (AAG 13) Arya Achint (AC to AAG 13)

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

5 12-10-2023 Heard learned counsels for the parties.

2. This writ application assails the order of District Land Acquisition Officer Saran at Chapra , whereby he has computed the compensation. The petitioner has objected that the quantum of compensation should have been assessed treating the land as commercial.

3 . Learned Counsel for the State submits that 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."

4. Learned Counsel for the petitioner does not dispute the above proposition of law .

5 . 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.

6. 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.

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

(Prabhat Kumar Singh, J)

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