

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8445 of 2018

Radhe Shyam Choubey, Son of Late Shiv Murat Choubey, Resident of
Village- Dahiyon, P.S.- Durgawati, District- Kaimur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Collector, Kaimur
2. The Commissioner, Patna Division, Patna.
3. The Competent Authority cum District Land Acquisition Officer, Kaimur Bhabhua.
4. The Special Corridor Scheme Officer through D.F.C., Mugal Sarai Shyam Kunj Plot No.122/1 Dafi P.O.- Narayanpur P.S. Lanka, District- Varanasi.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Arabind Nath Pandey, Advocate
For the Respondent/s	:	Mr. Subhash Chandra Yadav, GP-15
		Mr. Subodh Kumar, AC to GP-15

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 05-09-2024

Heard Mr. Arvind Nath Pandey, learned Advocate
for the petitioner and the learned Advocate for the State.

2. The petitioner is aggrieved by the order dated
19.05.2017, passed by the Commissioner, Patna Division, Patna
in Arbitration Case No. 07 of 2016, whereby the claim of the
petitioner for enhancement of rate of the land has been turned
down.

3. Learned Advocate for the petitioner contended at
the Bar that the impugned order is wholly illegal and passed on
extraneous consideration to the materials available on record by
the authority without giving any notice to the petitioner or spot



verification. The enquiry report is based upon the basis of records of right prepared during the course of revisional survey, which was published in the year 1970 and in fact the rate of the land has been decided against the provisions of Section 20(g) of the Railways Act.

4. Learned Advocate for the State drawing the attention of this Court to the averments made in the counter affidavit, especially para.7 submitted that the petitioner being aggrieved by the award passed by the respondent Competent Authority cum District Land Acquisition Officer, Kaimur Bhabhua approached for enhancement of compensation before respondent no.2, who was appointed as an Arbitrator for the Railway. On filing the case before respondent no.2, a report was called for from the Collector, Kaimur, whereupon a six men committee headed by the District Magistrate, Kaimur visited the land of the petitioner and found the land used as agricultural or there is no residential or business establishment. Finally the claim of the petitioner stood rejected by the Arbitrator, which is put to challenge before this Court.

5. Learned Advocate for the State further submitted that once the petitioner approached before the Arbitrator and an award has been passed negating the claim of the petitioner, the



only remedy available to the petitioner is under Section 34 of the Arbitration and Conciliation Act, 1996.

6. This Court finds substance in the submissions made by the learned Advocate for the State.

7. Without making any observation on the merits of the award, the writ petition stands disposed of with a liberty to the petitioner to prefer an appropriate application under Section 34 of the Arbitration and Conciliation Act, 1996 before the competent court.

8. If such an application is filed by the petitioner within a period of four weeks from today, the Principal Civil Court shall consider the application of the petitioner for condonation of delay in the light of the provision of Section 14 of the Limitation Act, 1963 as the writ petition of the petitioner had been pending before this Court since 2018.

9. The writ petition stands disposed off with the liberty aforesaid.

(Harish Kumar, J)

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CAV DATE	NA
Uploading Date	06.09.2024
Transmission Date	NA

