

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12075 of 2022

Deepak Kumar Shahi Son of Late Sukeshwar Shahi, resident of Village - Shahawazpur, P.O. - Shri Siyan Buzurga, P.S. - Kanti, District -Muzaffarpur, Bihar - 843108.

... .. Petitioner/s

Versus

1. The Union of India through the Secretary, Ministry of Road, Transport and Highway, New Delhi.
2. The National Highway Authority of India through its Chairman, NHAI, New Delhi.
3. The National Highway Authority of India through its Regional Office at PIU- Chhapra, House of Gaytri Devi, Plot No. - A-1, Prabhunath Nagar, P.O. - Tari, P.S.-Muffasil, District - Saran, Pin Code - 8431301.
4. The Project Director, PIU-Chhapra, House of Gaytri Devi, Plot No. A-1, Prabhunath Nagar, P.O.- Tari, P.S. - Muffasil, District- Saran, Pin Code - 8431301, E Mail - nhaichhapra @gmail.com.
5. The State of Bihar through the Collector, Muzaffarpur Collectorate, Muzaffarpur.
6. Arbitrator-cum-Additional Collector, Muzaffarpur.
7. The Competent Authority cum District Land Acquisition Officer, N.H. -77 Project, Muzaffarpur Collectorate, District - Muzaffarpur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Mritunjay Kumar, Advocate
For the Respondent/s	:	Mr. Sajid Salim Khan, SC-25
For the NHAI	:	Dr. Maurya Vijay Chandra, Advocate
		Ms. Rana Neha Kumari, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

9 07-05-2024 Heard Mr. Mritunjay Kumar, learned counsel for the petitioner, Mr. Sajid Salim Khan appearing for the State and Ms. Rana Neha Kumari, learned counsel for the NHAI.

2. The present writ petition has been preferred for the following reliefs:

(i) for issuance of a writ in the nature of



writ of certiorari or any other appropriate writ, order or direction for setting aside the Award No.46(Ka) dated 25.03.2021 and Award No. 54(ka) dated 25.03.2021 passed against land acquisition notification No. S O 2477(E) dated 30.09.2009 by Competent Authority Cum District Land Acquisition Officer, Muzaffarpur in supersession of power during pendency of Miscellaneous Case No. 108 of 2017 in the Court of Additional District Judge-XX, Muzaffarpur whereby the compensation was calculated by applying factor-II of rural area of agricultural land of the year 2009;

(ii) for issuance of a writ in the nature of writ of mandamus or any other appropriate writ, order or direction commanding the respondents to pay compensation of the acquired lands of the petitioner as per the award/order dated 05.06.2017 passed in Arbitration Record Case No.218/2013-14 by the Learned Arbitrator- cum- Additional Collector, Muzaffarpur;

(iii) for issuance of a writ in the nature of writ of mandamus or any other appropriate writ,



order or direction commanding the respondents to pay compensation of the acquired lands of the petitioner at the rate of Rs.95,000/- per decimal as prevailing on 01.01.2014 in Mauza Madhuban Jagdish @ Bajhila as have been done in the case of village Pitonjhia Jagannatha, Bedaul Asali and Gopalpur coming under NH-77 Muzaffarpur -Sonbarsa section of the same project.

3. Learned counsel for the petitioner submits that against the decision of the competent authority, the petitioner moved before the Arbitrator in Arbitration Case No. 218/2013-14 which was allowed on 05.06.2017 (Annexure-8 to the petition) holding the land to be residential after he personally inspected the area.

4. Aggrieved, 'the NHAI' moved before the learned District Judge, Muzaffarpur in Misc. Case No. 108 of 2017 under section 34 of the Arbitration and Conciliation Act, 1996.

5. It is the case of the petitioner that the same is pending, no stay granted, in that backdrop, the order of the Arbitrator still holds ground. However, arbitrarily, the DLAO, Muzaffarpur again passed the same order on 25.03.2021.

6. Aggrieved, the present petition.



7. A counter affidavit has been filed on behalf of the respondent nos. 5 and 7 (Collector, Muzaffarpur as also District Land Acquisition Officer, Muzaffarpur) and learned Standing Counsel 25 took this Court to the relevant paragraphs which read as follows:-

“It is further submitted that, so far as the preparation of award no. 40 ka and 54 [ka] both, dated 25-03-2021, are concerned, it is related to the Land Acquisition proceeding.

It is submitted that where the Arbitral Award of the land of the concerning Raiyat including this petitioner has been made, then there is no question to make a separate award of the same land holder in question for different amount. Moreover if it was found that the Competent Authority cum DLAO Muzaffarpur has made the aforesaid award against which the relief is sought, then in that case the same may be excused. Moreover in similar situation, the like order was passed on 11.10.2022 by the Hon'ble High court, Patna in CWJC no. 11811 of 2022 Jagdish Singh versus Union of India vide Annexure-"B".”

8. He submits that the said order was erroneously passed by ‘the DLAO’, Muzaffarpur and the same can be ignored.

9. When the concerned respondent, themselves have



has come to the conclusion that erroneously, the said order has been passed, the natural recourse was to withdraw the same but the same has not been done. In that circumstances, Annexure-12 and 13 issued by the DLAO, Muzaffarpur dated 25.03.2021 so far as it relates to the petitioner stands quashed.

10. The parties are free to pursue the case preferred by 'the NHAI' before the Court of learned District Judge Muzaffarpur and the order passed in the said case shall be binding upon them.

11. The writ petition stands disposed of.

(Rajiv Roy, J)

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