

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18118 of 2023

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1. Jamil Akhtar, Son of Ravark Hussain, resident of Village Phulwariya Bangali Tola, Ward No. 13, P.S. Phulwariya, District-East Champaran.
 2. Wasi Akhtar, son of Tavark Hussain, resident of Village Phulwariya Bangali Tola, Ward No. 13, P.S. Phulwariya, District-East Champaran.

... .. Petitioner/s

Versus

1. The Union of India Through the Secretary, Department of Road Transport and Highways, New Delhi
2. National Highways Authority of India New Delhi through its Chairman.
3. The State of Bihar through the Divisional Commissioner, Tirhut Division, Muzaffarpur.
4. The Divisional Commissioner, Tirhut Division, Muzaffarpur.
5. The Collector cum District Land Acquisition Officer, East Champaran, Motihari.

... .. Respondent/s

Appearance :

For the Petitioners	:	Mr. Jitendra Kishore Verma, Advocate
For the State	:	Mr. Ravish Chandra, AC to SC-6
For the NHAI	:	Dr. Maurya Vijay Chandra, Advocate

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

2 01-02-2024

1. Heard learned counsels for the parties.

2. This writ application has been filed for the following reliefs:-

“(I) To get the proper compensation determined according to the present market value through arbitration in terms of provisions of Section 3-G(5) of National Highways Act, 1956 having regard to the commercial nature of the land and till the proper compensation is determined and paid, the possession of petitioner should not be disturbed or taken over.

(II) Alternatively the petitioners may be permitted to file a detailed objection regarding the proposed compensation amount and its acceptability which may be referred to competent arbitrator in terms of Section



3-G(5) who would decide it within a time frame after considering the objection, materials and evidences of the petitioner on its merits by condoning the delay in making such objection in the facts of the case and till then the possession of the petitioner should not be disturbed.

(III) Grant any other relief or reliefs as deemed fit and proper in the facts and circumstances of the petitioner's case.”

3. Learned counsels for the respondents raises preliminary objection to the effect that an alternative remedy is available to the petitioners by way of filing appropriate application under Section 3G(5) of The National Highways Act, 1956, which reads as:

“If the amount determined by the competent authority under sub-section (1) or subsection (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.”

4. Learned counsel for the petitioners does not dispute the above proposition.

5. In the above view of the matter, this Court is not inclined to interfere in the matter in its extra-ordinary writ jurisdiction.

6. Petitioners shall be at liberty to seek remedy before the appropriate forum as may be available to them in accordance



with law.

7. If such an application is moved by the petitioners before the competent authority within a period of six weeks from today, the same shall be entertained and the order shall be passed expeditiously, in accordance with law, after hearing the parties, preferably within a period of one year from the date of filing of the application.

8. It goes without saying that if any question of limitation arises before the competent authority, the same shall be considered, taking into consideration the fact that the petitioners were pursuing the issue before this Court under Article 226 of the Constitution of India.

9. With the aforesaid observations and directions, this writ application is disposed of.

(Prabhat Kumar Singh, J)

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