

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1467 of 2024

Bhishamdeo Pandey Son of Late Radhakrishna Pandey, Resident of Village-Laxmipur, P.O.- Laxmipur, P.S.- Pirpanti, District-Bhagalpur, Bihar-813222.

... .. Petitioner/s

Versus

1. The Union of India Through the Ministry of Road Transport and Highways, Transport Bhawan, 1, Parliament Street, New Delhi-110001.
2. The Secretary, Road Transport and Highways, Government of India.
3. The National Highway Authority of India through its Chairman, G-5 and G-6, Sector-10, Dwarka, New Delhi- 110075.
4. The Chairman, National Highway Authority of India, G-5 and G-6, Sector-10, Dwarka, New Delhi-110075.
5. The General Manager, The National Highway Authority of India, Regional Office, Bihar, S.K. Puri, Patna -800001
6. The State of Bihar through the Secretary, Revenue and Land Reforms Department, Government of Bihar, Patna.
7. The Commissioner-cum-Learned Arbitrator, Bhagalpur Division, Bhagalpur.
8. The District Magistrate, Bhagalpur.
9. The District Land Acquisition Officer, Bhagalpur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Kumar Kaushik, Advocate
For the Respondent/s	:	Mr. Sriram Krishna, Advocate
		Mr. Amarjeet, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 02-05-2024 Heard Mr. Kumar Kaushik, learned Counsel for the petitioner and Mr. Sriram Krishna, learned Counsel appearing for the N.H.A.I.

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

(i) for issuance of an order, direction or a writ of certiorari for quashing the order dated 16.08.2023 passed in Land Acquisition Appeal Case No.34/ 2023-24 communicated to the petitioners through Memo No.1080 dated



23.08.2023 whereby and whereunder the application filed by the writ petitioners under Section 3- G (5) of the National Highways Act, 1956 for redetermination of the award has been rejected by the Respondent No.7 namely, the Commissioner, Bhagalpur Division-cum-Learned Arbitrator only on the ground of delay without deciding the claim of the petitioners on merit;

(ii) for issuance of an order, direction or a writ of mandamus for directing the respondent authorities to determine the award in accordance with Section 3-G (7) of the National Highways Act, 1956 read with Section 26 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 on the basis of market value specified in the Indian Stamp Act, 1899 for the registration of the sale deed in the area where the land is situated;

(iii) for issuance of an order, direction or an appropriate writ for restraining the respondent authorities from taking possession of the landed properties of the petitioners without



*redetermination and payment of award as prayed
for in this writ application in accordance with law.*

3. Learned Counsel for the petitioner submits that the award was prepared in Land Acquisition Case No. 78/2019-20 under section 23 and 30 of the 2013 Act and he was directed to receive Rs. 10,54,197.02/- Paisa.

4. Learned Counsel further submits that after the rejection of the claim put forward by the competent authority, vide an order dated 16.08.2023 which was communicated to him vide memo no. 1080 dated 23.08.2023, he challenged the same before the Arbitrator in Land Acquisition Appeal Case No. 34 of 2023-24 (Bhishamdeo Pandey vs District Magistrate, Bhagalpur & Ors.).

5. Learned Counsel submits that it came to be dismissed on 16.08.2023 (Annexure-P12 to the petition) and a perusal of the same would show that same has been rejected only on the ground of limitation. He submits erroneously it was decided on the basis of limitation though there was no delay on the part of the petitioner in approaching the concerned Court.

6. Learned Counsel for the petitioner submits as that the case has been rejected only on the ground of limitation, it has to be reheard and taken to its logical conclusion.



7. Both the learned State Counsel as also learned Counsel appearing on behalf of the N.H.A.I. jointly submitted that when a reasoned order has been passed on merit and/or the same is on limitation, now the recourse with the petitioner is to approach the competent Court under section 34 of the Arbitration and Conciliation Act, 1996, (henceforth for short 'the Act, 1996'). They submit that an order has been passed by the Arbitrator cum Commissioner on 08.08.2023. It is another matter that the same has been rejected on the basis of limitation and now the Arbitrator cannot review its own order.

8. This Court is also of the same view. An order has been passed by the Arbitrator and in that background only recourse available to him is to approach the competent Civil Court under section 34 of the '1996 Act'.

9. So far as the no delay submission is concerned, it has to be noted that the Award/notice of the Collector in L.A. Case No. 78 of 2019-20 is 09.08.2021 (Annexure-P-3).

10. The petitioner remained inactive for one year and in the year 2022 having thought of the delay approached Patna High Court in C.W.J.C. No. 1778 of 2022. The same was disposed of on 19.05.2022 directing him to approach the Arbitrator under the N.H. Act, 1956.



11. Again he sat over the matter for one year and on 05.06.2023 filed L.A. Appeal No. 34 of 2023-24. The Arbitrator thus was fully justified in taking decision on limitation holding that no reason has been explained for filing appeal one year after the disposal of writ petition.

12. Learned Counsel for the petitioner submits that he will be approaching the concerned competent Court within a period of four weeks but again the limitation may come into picture.

13. If the petitioner approaches the concerned competent Court within a period of four weeks from today, the Court concerned shall take into account the fact that he was pursuing his remedy before the Writ Court while considering the limitation petition preferred by him. This Court clarifies that the same is restricted to only four weeks and not thereafter.

14. The writ petition stands disposed of with the aforesaid observation.

(Rajiv Roy, J)

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