

ASR 7-16.
Ct. no. 16.
25.4.2024

FMA 911 of 2019
The National Highways Authority of India
Vs.
Humayun Kabir Molla & Ors.
with
CAN 2 of 2022
With
CAN 3 of 2022
With
FMA 1194 of 2019
Manu Das
Vs.
National Highway Authority of India & Ors.
With
FMA 1017 of 2019
Manuara Bibi & Ors.
Vs.
The National Highways Authority of India & Anr.
With
FMAT 824 of 2019
Ajit Kumar Dutta & Ors.
Vs.
The National Highways Authority Project
Implementation & Anr.
with
FMA 588 of 2019
The National Highways Authority of India
Vs.
Jakaria Sk. & Ors.
With
CAN 3 of 2022
With
FMAT 817 of 2019
National Highway Authority of India
Vs.
Ajit Kr. Dutta & Ors.
With
CAN 2 of 2022
With
FMA 585 of 2019
The National Highway Authority of India
Vs.
Manuyara Bibi & Ors.
With

CAN 3 of 2022
With
FMA 584 of 2019
The National Highways Authority of India
Vs.
Dinabandhu Saha & Ors.
With
CAN 3 of 2022
With
FMA 586 of 2019
The National Highways Authority of India
Vs.
Nasiruddin Sk. & Ors.
With
CAN 3 of 2022
With
FMA 1016 of 2019
Humayun Kabir Molla @ MD Humayun Kabir Molla &
Anr.
Vs.
The National Highways Authority of India & Anr.

Mr. Siddhartha Mitra, Sr. Counsel,
 Mr. Shamit Sanyal,
 Ms. Manika Roy,
 Mr. Sabyasachi Roy,
 Ms. Shinjita Roy, Advs.

.....For the NHAI.

Mr. Ramen Bose, Adv.

..... For the Appellants
 FMA 1194 of 2019,
 FMA 1017 of 2019,
 FMAT 824 of 2019,
 FMA 1016 of 2019

Mr. Srijib Chakraborty
 Mr. Aasish Choudhury

..... For the appellants.

Mr. Ramen Bose, Adv.

..... For the Respondents
 in FMA 911 of 2019,
 FMAT 817 of 2019, FMA
 585 of 2019.

Mr. Avinash Kankani,
 Mr. Suman Majumder, Advs.

.....For the respondent
 Nos. 6 & 8.

On 23rd February, 2024 a batch of appeals was mentioned before us.

It was stated that the facts involved were similar to those in “ **FMA 587 of 2019**

The National Highways Authority of India

Vs.

Iunus Ali Mondal and Ors.

With

FA 34 of 2022

Subhas Das and Ors.

Vs.

The National Highways Authority of India and Ors.

With

FMA 1667 of 2019

Naimuddin Sk. and Ors.

Vs.

The National Highways Authority of India and Ors.

With

F.M.A.T. 839 of 2019

Jitendra Chandra Das and Ors.

Vs.

The National Highways Authority of India and Anr.”

which we had disposed of by our judgement and order dated 5th January, 2024.

We were asked to pass similar orders in that batch of appeals.

We observed that we could not as those appeals were not assigned to us.

Further to this observation, the Hon’ble The Chief Justice was approached for an administrative order and the above appeals have been assigned to us by His Lordship.

We deal with them collectively.

It is an admitted position that the facts of these appeals are almost identical to those, which we disposed of on 5th January, 2024. There may be some minor variation, which will not affect the decision.

The judgement and order made by us on 5th January, 2024 is as follows:

“All these four appeals are being disposed of by this single judgment and order as common questions of fact and law are involved.

Large tracts of land in Mouza – Tatla and Debogram in Nadia district were acquired under the National Highways Act, 1956 for widening National Highway 34.

As required by the said Act, the amount of compensation was determined by the competent authority under Section 3(G) of the said Act. Aggrieved by the determination made by the competent authority, the land losers referred the matter to arbitration under Section 3G(5) of the said Act. In the award the learned arbitrator held that the value of the land per acre would be uniform and also enhanced the value per acre as determined by the competent authority to Rs.70,00,000/- and odd per acre.

Aggrieved, the National Highways Authority challenged the award before the learned District Judge, Nadia.

By the impugned judgment and order dated 28th September, 2018 the learned judge upheld the award to the extent that the value of the said land should be uniform while calculating compensation but set aside the award with regard to its valuation at Rs.70,00,000/- and odd per acre on the ground that there was no basis for it.

Each of these appeals has been preferred from the said judgment and order dated 28th September, 2018. National Highways Authority is aggrieved by both the findings in the impugned judgment and order relating to uniformity in valuation and the rate at which each unit is to be valued. The land losers are aggrieved by the part of the award setting aside the valuation.

These appeals have been pending in this court for several years.

The net effect of this pendency is that neither the National Highways Authority has been able to utilize the land for the widening of National Highway 34 nor the compensation payable to the land losers finally determined, although they have received the compensation determined by the competent authority.

We are of the view that the ends of justice would be subserved if this matter is remanded to the learned District Judge, Nadia to rehear and re-determine the matter. We order accordingly. The learned District Judge is directed to record specific findings whether the value of the land acquired would be uniform or not and if not uniform, the values of different areas. A determinator should also be made with regard to the value per acre for the whole area if it is held that the valuation would be uniform and the value per acre for specific areas, if it is held that the values would not be uniform. In that way, the total amount of compensation payable could also be assessed so that this matter pending for a long time attains finality once and for all. Even if this amount to modifying the award, we would permit it for the cause of substantial justice.

It would be open to the National Highways Authority to approach the learned District Judge for appropriate orders with regard to taking possession of the land. The application if made shall be considered in accordance with the provisions of the National Highways Act, 1956.

We request the learned District Judge to dispose of the application to set aside the award

within three months of communication of the order.

The appeals are disposed of by this order”.

In those circumstances, we dispose of each of the above appeals in the cause title by passing an order identical to the one, we passed on 5th January, 2024, as if, the said order was incorporated in this order.

The learned District judge, Nadia is to dispose of each application to set aside the award within three months of communication of this order.

The registry of this court is directed to return the lower court records immediately to the court below.

The appeals and all connected applications (FMA 911 of 2019 with CAN 2 of 22 with CAN 3 of 2022 with FMA 1017 of 2019 with MAT 24 of 2019 with FMA 588 of 2019 with CAN 3 of 2022 with FMAT 817 of 2019 with CAN 2 of 2022 with FMA 585 of 2019 with CAN 3 of 2022 with FMA 584 of 2019 with CAN 3 of 2022 with FMA 586 of 2019 with CAN 3 of 2022 with FMA 1016 of 2019) are disposed of by this judgement and order, if not already disposed of.

[I.P. Mukerji, J]

[Subhendu Samanta, J]

