

05.01.2024
SSS (1-4)

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.

Mr. Avishek Prasad,
Ms. Sreetama Neogi,
Mr. Sourodeep Singha, Advs.

.....for the Appellants in FMA
1667 of 2019.

Mr. Siva Prosad Ghosh,
Mr. Debasis Guin,
Mr. Sukla Das Chandra, Advs.

.....for the Appellants in FA 34
of 2022 and for the respondents
in FMA 587 of 2019.

Mr. Siddhartha Mitra, Sr. Adv.,
Ms. Manika Roy,
Ms. Shinjita Roy, Advs.

.....for the NHAI.

Mr. Soumitra Bandyopadhyay,
Ms. Suchana Banerjee,

Mr. Srinath Singh Roy, Advs.

.....for the State Respondents.

Mr. Ramen Bose,

Mr. Bani Brata Dutta,

Mr. Aktaruziaman, Advs.

....For the Appellants in FMAT
839 of 2019 and for the
respondent Nos.9, 17, 20, 33, 37-
41 and 44 in FMA 587 of 2019.

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.

[I.P. Mukerji, J]

[Subhendu Samanta, J]

