



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.426 OF 2024

(Shri Vilas Tryambak Waghmare .vs. National Highway Authority of India and others)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Shri M.V. Khadakban, Advocate with Shri M.A. Vishnu, Advocate for petitioner,
Shri A.U. Niyogi, Advocate for respondent no.1,
Shri S.M. Ukey, Additional Government Pleader for respondent nos.2 and 3.

.....

CORAM : NITIN W. SAMBRE AND ABHAY J. MANTRI, JJ.
DATE : 27.08.2024.

Heard learned counsel for the parties.

2. We are informed that against the Award delivered by the Collector under the provisions of the National Highway Authority Act, 1956, the respondent no.1-acquiring body has already chosen to take up the proceedings before the learned District Judge questioning the same in the form of an appeal.

3. The learned counsel for respondent no.1 assures that entire details, including appeal memo, shall be made available to the counsel for the petitioner within one week.

4. In reply to the claim made in the petition, the respondent no.1 in paragraphs 6 and 7 of the affidavit-in-reply, has mentioned as under :

6. It is submitted that however the Ld. Arbitrator erred in granting the compensation at the rate of

9% for the first year, and at the rate of 15% till the date of actual realization. It is submitted that the Ld. Arbitrator erred by not giving any specific reasoning as to why the compensation was to paid by applying interest at the above interest rate of 15% till the date of realization which contradictory to the applicable law i.e. The National Highways Act, 1956.

*7. It is submitted that as per the Section 3-H(5) of the National Highways Act, 1956 it is provided that, "Where the amount determined under section 3G by the arbitrator is in excess of the amount determined by the competent authority, the arbitrator may award interest at **nine per cent**, per annum on such excess amount from the date of taking possession under section 3D till the date of the actual deposit thereof." Thus, where on one hand the applicable law says that only 9% of interest is applicable as aforementioned, it is not clear as to how and why the Ld. Arbitrator went out of the way to grant 15% interest over 9% till the date of realization."*

5. As such, prima facie we are satisfied that the claim before the appellate authority i.e. the learned District Judge, wherein the Award passed by the Collector is an arbitrator in question, is only to the extent of entitlement of the petitioner for the interest either at the rate of 9% or 15%. That being so, the statement made by the learned counsel for the respondent no.1 that the entire amount, which is subject matter of the Award passed by the Collector, shall be deposited in the pending appeal of the respondent no.1, with interest at the rate of Rs.9%, is accepted.

6. In view of aforesaid statement, which is accepted by this court, nothing remains to be considered in the petition.

7. Needless to clarify that this court has not adjudicated the right of the petitioner to the extent of entitlement at the rate of 9% or 15%, as the said issue can be looked into by the appellate authority in accordance with law.

8. We permit the petitioner to withdraw the said amount upon furnishing an undertaking before the appellate authority.

9. The petition stands disposed of accordingly.

(ABHAY J. MANTRI, J.)

(NITIN W. SAMBRE, J.)