

THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1841 of 2019

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Birmani Mishra Son of Late Dip Narayan Mishra Resident of Village- Neema,
P.S. Dhanarua, District- Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar through Chief Secretary, Government of Bihar, Patna.
2. The District Magistrate-cum- Collector, Patna.
3. The Commissioner, Patna Division, Patna.
4. The Additional Collector-cum- Competent Authority, Patna.
5. The National Highway Authority of India through its Director, New Delhi,
India

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Arvind Kumar Sharma, Adv. Mr. Dinu Kumar, Adv.
For the Respondent/s	:	Mr. Dhurjati Kumar Prasad, GP14
For the NHAI	:	Mr. Dr. Maurya Vijay Chandra, Adv. Mr. Preety Ranjan, Adv. Mr. Gaurav Govinda, Adv.

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

3 06-02-2025 Heard Learned Counsel for the petitioner, Learned
Counsel for the State and Learned Counsel for the NHAI.

2. Learned Counsel for the petitioner submits that the present writ petition has been filed for directing the Additional Collector -cum- Competent Authority to disposed of Misc. Case no.12 of 2017 as earliest as possible considering issue of compensation of acquisition of the land for payment on market value. He further submits that the land of the petitioner has been acquired for construction of NH-83 Patna -Dobhi Gaya section.

3. Counsel further submits that the acquisition of the



petitioner's land has to be made according to National Highways Act, 1956 (Act 48 of 1956). The compensation amount as fixed by the officials have been received with objection and application has been filed under section 3.G (5) of the National Highways Act, 1956 (Act 48 of 1956) before the Arbitrator.

4. Counsel further submits that the petitioner himself made request to the Collector *vide* Annexure-8 in which he has indicated the case name of the petitioner is Arbitration Case No.12 of 2017. It has been mentioned that the petitioner's case was earlier pending before the Additional Collector -cum- Arbitrator, but subsequently, the Divisional Commissioner has been appointed as arbitrator and, therefore, his case has to be transferred to Court of Divisional Commissioner-cum-Arbitrator, but according to his petition, it has not been accepted by the Divisional Commissioner -cum- Arbitrator and, therefore, he could not get justice.

5. Learned Counsel for the NHAI submits that writ petition has been drafted poorly and perhaps, there is some confusion to the counsel as correct case number has also not been mentioned instead of Arbitration Case No.12 of 2017, Miscellaneous Case has been mentioned. But in any view of the



matter, he fairly submits that in case, final order has not been passed in the petitioner's arbitration Case No.12 of 2017, he shall be entitled to get final order in his arbitration case (miscellaneous case).

6. Counsel for the State submits that since matter is relating to acquisition of land for National Highways. Therefore, the State has very limited role to play.

7. In the light of the submissions made, it is directed to the petitioner that he shall file a fresh representation before the Divisional Commissioner-cum- Arbitrator (respondent No.3) stating the clear cut stand which has been mentioned in annexure-8 by the petitioner himself and upon receiving the same, the Divisional Commissioner-cum- Arbitrator shall pass order on the Arbitration Case (Miscellaneous Case) No.12 of 2017, if no final order passed in the said case.

8. It is made clear that if it has been found that the case record is not available in the office of Commissioner then, he shall verify about this case in the office the then Additional Collector-cum- Arbitrator within one month from the date of production of this order.

9. In case, the record of Arbitration Case (Miscellaneous Case) No.12 of 2017 become traceless, which



has to be decided by the Arbitrator within the said period, the petitioner shall be at liberty to file a fresh Arbitration Case raising all its point before the Divisional Commissioner-cum-Arbitrator who will pass final order within 3 months thereafter. As such, the writ petition is hereby disposed off.

10. It is pertinent to mention here that NHAI has indicated that the same petitioner has moved before this Hon'ble Court in C.W.J.C. No.17484 of 2021 in which *vide* order dated 09.02.2023, adjournment has been made for 4 weeks and direction has been given to the NHAI as well as to the State to file counter-affidavit. As such, they are directed to mention about the fact of this case in their counter-affidavit.

11. With the aforesaid directions and observations, the present writ application stands disposed off.

(Dr. Anshuman, J.)

Prakashmani/-

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