

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17049 of 2017

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Bibi Ishrat Jahan Wife of Md. Rizwan, Resident of Village- Bara Kamat
Chistipur, P.S.- Araria, District- Araria.

... .. Petitioner/s

Versus

1. The Union Of India.
2. The Managing Director, National Highway Authority of India, New Delhi.
3. The Project Director, National Highway Authority, Araria at Purnia, Bihar.
4. The State of Bihar through the Principal Secretary, Road Construction Department, Govt. of Bihar, Patna.
5. The Principal Secretary, Department of Revenue and Land Reforms, Govt. of Bihar, Patna.
6. The Director, Land Acquisition, Department of Revenue and Land Reforms, Bihar, Patna.
7. The District Magistrate, Araria.
8. The Competent Officer-cum-District Land Acquisition Officer, Araria.
9. The Executive Engineer, Building Construction Department, Building Division, Araria.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Uday Bhanu Roy, Advocate Mr. Baleshwar Kamat, Advocate
For the Respondent/s	:	Mr. AAG-11
For the NHAI	:	Mr. Kumar Goutam, Advocate Ms. Priyanshu Kumari, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL JUDGMENT

Date : 18-11-2025

Heard Mr. Uday Bhanu Roy, learned counsel for the
petitioner, Mr. Kumar Goutam for ‘the NHAI’ as also Mr.
Jitendra Kumar representing the State.

2. The present petition has been preferred for the
following relief(s):

“issuance of an appropriate writ,



order or to direction to the respondents make payment of entire compensation amount alongwith penal interest of the land alongwith Pucca building and three thatched houses acquired by central government/ National Highway authority of India for the purpose of widening of National Highway No.57 pursuant to the order dated 18.10.2012. passed by Additional Collector cum Arbitrator, Purnea in Arbitration case no. 16/2010 and/or for any other relief or reliefs to which the petitioner is found fit and entitled.”

3. The matter relates to construction/widening of NH-57. The matter went up to the Arbitrator in **Arbitration Case No. 16 of 2010 (Bibi Ishrat Jahan vs. Land Acquisition Officer, Araria & Ors.)**. It came to be disposed of on **18.10.2012** by the Additional Collector-cum-Arbitrator, Purnea and taking into account that the part of the building that was demolished has led to the complete building getting damaged. As such, she is entitled for the compensation. (Annexure-5 to the petition).

4. The direction was to pay Rs. **16,38,650/-**. The information given by the learned counsel for ‘the NHAI’ earlier was that they have moved before a competent Court in Misc.



Case No. 04 of 2013 which later was dismissed for non-prosecution. A restoration petition was filed vide Misc. Case No. 18 of 2019 which is presently pending.

5. This Court has taken note of the facts of the case. For the widening of the NH-57, the part of the building was acquired. However, the demolition of that part of the building led to complete building getting damaged. In that background and taking note of the entire facts, the Arbitrator passed an order for payment of compensation of Rs. 16,38,650/-. The order was passed on 18.10.2012. 'The NHAI' in a routine manner and just to avoid making payment, challenged the order but never pursued it. Accordingly, it was dismissed for want of prosecution. This followed Restoration petition (Misc. Case No. 18/2019). As per the learned counsel for 'the NHAI', it is still pending and not restored.

6. In that background, on 09.09.2025, the Court wanted an affidavit from 'the NHAI' on the point whether any step has been taken in the matter and/or whether it intends to make any payment or not with clear observation that if there is no stay, whether they intend to clear the amount.

7. Today on call, there is no reply. However, orally, the learned counsel for 'the NHAI' has confirmed that the



restoration petition is still pending for want of LCR.

8. While 'the NHAI' is taking its time, the petitioner is suffering. As recorded, part of the building was demolished for the construction/widening of the NH-57, it resulted into damaging the rest of the building. The Arbitrator came to a definite conclusion that there is conclusive evidence to show that the building is damaged and as such, she is entitled to the compensation.

9. Learned counsel for the petitioner has taken this Court to **section 36(2) of the Arbitration and Conciliation Act, 1996** (henceforth for short 'the Act'), according to which, if an application has been filed to set aside the arbitral award and if the stay of the said operation has not been passed by a competent Court, payment has to be made.

10 The exact words of the section 36 of 'the Act' read as follows:

36. Enforcement - (1) *Where the time for making an application to set aside the arbitral award under section 34 has expired, then, subject to the provisions of sub-section (2), such award shall be enforced in accordance with the provisions of the Code of Civil Procedure, 1908 (5 of 1908), in the same manner as if it were a decree of the court.*



(2) Where an application to set aside the arbitral award has been filed in the Court under section 34, the filing of such an application shall not by itself render that award unenforceable, unless the Court grants an order of stay of the operation of the said arbitral award in accordance with the provisions of sub-section (3), on a separate application made for that purpose.

(3) Upon filing of an application under sub-section (2) for stay of the operation of the arbitral award, the Court may, subject to such conditions as it may deem fit, grant stay of the operation of such award for reasons to be recorded in writing:

Provided that the Court shall, while considering the application for grant of stay in the case of an arbitral award for payment of money, have due regard to the provisions for grant of stay of a money decree under the provisions of the Code of Civil Procedure, 1908 (5 of 1908).]

¹*[Provided further that where the Court is satisfied that a Prima facie case is made out that,--*

(a) the arbitration agreement or contract which is the basis of the award; or

(b) the making of the award, was induced or effected by fraud or corruption, it shall stay the award unconditionally pending disposal of the



challenge under section 34 to the award.

Explanation.--For the removal of doubts, it is hereby clarified that the above proviso shall apply to all court cases arising out of or in relation to arbitral proceedings, irrespective of whether the arbitral or court proceedings were commenced prior to or after the commencement of the Arbitration and Conciliation (Amendment) Act, 2015 (3 of 2016).]

(emphasis added)

11. 'The NHAI' slept over the matter. While the vehicles running on the NH-57 since long, the petitioner is waiting for her rightful due which otherwise should have been in her kitty more than a decade ago. The mighty 'NHAI' is deliberately making the petitioner to suffer which cannot be allowed.

12. Taking into account the aforesaid facts that the authorities after filing the Misc. Case No. 04 of 2013 slept over the matter, it got dismissed for default, restoration petition was filed in the year 2019, has still not taken to the logical conclusion due to the reason best known to 'the NHAI'. Section 36(2) of 'the Act' is clearly applicable in the case. In that background, this Court is of the opinion that the petitioner is entitled to the Arbitral award of Rs. 16,38,650/-. This has to be



cleared to the petitioner by 31st of December, 2025 failing which she will be entitled to an interest of 9% effective 01.01.2026 till the payment is made.

13. Further, if the payment is still not cleared by 31st of March, 2025, she will be entitled to an additional amount of Rs. 25,000/- which shall come from the pocket of the Official of ‘the NHAI’ who failed to look into the matter.

14. The writ petition stands allowed.

(Rajiv Roy, J)

Adnan/-

AFR/NAFR	AFR
CAV DATE	N/A
Uploading Date	19.11.2025
Transmission Date	N/A

