

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.130 of 2022

National Highway Authority, NH 83 through Project Director, Project Implementation Unit-Gaya Office at 70/244, Chanakyapuri Colony, Opposite, Judicial Quarter Gaya.

... .. Appellant/s

Versus

1. Surendra Prasad Sharma Son of Late Ramcharitar Singh Resident of Village-Lodipur, P.S.-Belaganj, District-Gaya.
2. The State of Bihar through Collector Gaya, Collectorate Campus, Gaya.

... .. Respondent/s

with
Miscellaneous Appeal No. 163 of 2022

National Highway Authority, NH 83 through Project Director, Project Implementation Unit-Gaya Office at 70/244, Chanakyapuri Colony, Opposite Judicial Quarter Gaya.

... .. Appellant/s

Versus

1. Dinesh Sharma Son of Late Ramchalitar Singh Present Resident of Village-Lodipur, Neuri Bazar, P.S. Belaganj, District-Gaya.
2. The State of Bihar through Collector Gaya, Collectorate Campus, Gaya.

... .. Respondent/s

Appearance :

(In Miscellaneous Appeal No. 130 of 2022)

For the Appellant/s	:	Dr. Maurya Vijay Chandra, Advocate
For the Respondent no.1	:	Mr. Manish Kumar No. 2, Advocate
		Mr. Gajendra Kumar Singh, Advocate
For the State	:	Mr. Uday Shankar Sharan Singh G.P. 19

(In Miscellaneous Appeal No. 163 of 2022)

For the Appellant/s	:	Dr. Maurya Vijay Chandra, Advocate
For the Respondent no.1	:	Mr. Manish Kumar No. 2, Advocate
		Mr. Gajendra Kumar Singh, Advocate
For the State	:	Mr. Uday Shankar Sharan Singh G.P. 19

CORAM: HONOURABLE MR. JUSTICE KHATIM REZA
CAV ORDER

26 15-04-2025 Heard learned counsel for the appellants as well as

learned counsel for the respondents.

2. These two appeals arise out of land acquired



through the same notification under Section 3(A) of the National Highway Authority of India Act, 1956. The acquisition of land of village Lodipur was initiated by the State of Bihar on the requisition made by the National Highway Authority of India for widening of NH-83, Patna-Gaya Dobhi Road.

3. M.A. No. 130 of 2022 has been filed under Section 37 of Arbitration and Conciliation Act, 1996 (hereinafter referred to as 'Arbitration Act') against the judgment and order dated 20.11.2021 passed by the learned Additional District Judge-III, Civil Court, Gaya in Civil Miscellaneous (Arbitration) Case No. 57/2018/05/2019 challenging the award dated 05.04.2018 passed by the Arbitrator in Arbitration (N.H. 83) Case No. RA 33/2014-15 whereby, the learned Additional District Judge has rejected the Civil Miscellaneous case filed by the National Highway Authority of India (hereinafter referred to as 'NHAI').

4. M.A. No. 163 of 2022 has been filed against the judgment and order dated 20.11.2021 passed by the learned Additional District Judge-III, Civil Court, Gaya in Civil Miscellaneous (Arbitration) Case No. 49/2018/04/2019 against the award of Arbitrator dated 05.04.2018 passed in Arbitration (N.H. 83) Case No. RA 210/2015.



Brief Facts of the Case

5. The NHAI was entrusted with the work of widening/bypass of N.H. 83 (Gaya-Dobhi Road). The NHAI published a notification for acquisition of land for widening road project. Accordingly, notice was issued to the land holders including the respondents in M.A. No. 130 of 2022 for the land bearing Khata No. 399, Plot No. 2752 measuring an area of 0.0732 acres. The said land was acquired by the authority concerned for widening N.H. 83. The objection was invited under Section 3(c)(1) of the National Highway Authority of India Act. Some dispute arose for payment of the compensation amount, therefore, Arbitration (N.H. 83) Case No. RA 33/2014-15 was filed before the learned Arbitrator (N.H. 83), Gaya stating therein that the land of respondent is situated near N.H. 83 and there is Hotel (name and style as Ashirvad Hotel) standing over the said land. The Tourism Department of Bihar Government has sanctioned a subsidy of Rs. 5 lakhs on 27.03.2014 for upgrading the said Hotel. It is further contended in the objection petition that under same acquisition proceeding some persons have received compensation amount on the basis of commercial rate. One Sanjay Sahu, whose land was also situated on the same road has been paid the compensation



amount on commercial rate and at the same time respondent's compensation amount has been calculated on the basis of agricultural rate.

6. Under the same land acquisition proceeding respondent's land of M.A. No. 163 of 2022 was acquired for extension of N.H. 83 for the purpose of construction of Bypass. The land totalling 2.275 acres of Plot No. 2847 of Khata No. 399 was acquired. The respondent-land holder had filed his objection pursuant to notice under Section 3(c)(1) of the NHAI Act, in respect of the dispute with regard to compensation amount. The respondent- land holder filed Arbitration (N.H. 83) Case No. RA 210/2015 before the learned Arbitrator (N.H. 83) Gaya, stating therein that the land in question is situated near N.H. 83 and there is a hotel and other commercial shops etc. standing over the said land. It was contended that for similarly situated land of Sanjay Sahu, he has been paid the compensation amount on commercial rate. The authority has wrongly calculated the compensation amount of the respondent's land on agricultural rate.

7. In both the Arbitration Case, the NHAI appeared before the Arbitrator. It is further contended that during the pendency of case, a physical verification was made by the



Arbitrator and he found the construction over the land in question and finally the Arbitrator directed the authority to determine the compensation of the respondent (in each appeal i.e. M.A. No. 130 of 2022 & M.A. No. 163 of 2022) at the rate of residential MVR by order dated 05.04.2018 and accordingly separate award was prepared.

8. Being aggrieved by the aforesaid award dated 05.04.2018 passed in Arbitration (N.H. 83) Case No. RA 33/2014-15 (Surendra Prasad Vs. State of Bihar and others) and Arbitration (N.H. 83) Case No. RA 210/2015 (Sri. Dinesh Sharma and State of Bihar and others), Civil Miscellaneous (Arbitration) Case No. 57/2018/05/2019 and Civil Miscellaneous (Arbitration) Case No. 49/2018/04/2019 respectively was filed by National Highway Authority, N.H. 83 through Project Director, separately.

9. After considering, both the Civil Miscellaneous (Arbitration) Cases have been disposed of on 20.11.2021 on the same ground. The learned Additional District Judge held that the direction of the Arbitrator given to the Competent Authority for determination of the compensation on the basis of the residential MVR after measurement of the land occupied by the structure and after its satisfaction that the structure was raised in the year



2000 i.e., before the date of notification is in consonance with the stand taken by the NHAI in paragraph 8 of the objection petition. It was further held that until the Competent Authority in compliance of above direction of the Arbitrator determines the compensation, the NHAI has no grievance and the above petitions filed under Section 34 and 34(1) of the Act is premature and not maintainable. Accordingly, both the cases i.e. Civil Miscellaneous (Arbitration) Case No. 57/2018/05/2019 and Civil Miscellaneous (Arbitration) Case No. 49/2018/04/2019 were rejected separately on the same day i.e. 20.11.2021.

10. Against the aforesaid order of the learned Additional District Judge, the NHAI has preferred two aforesaid appeals (M.A. No. 130 of 2022 & M.A. No. 163 of 2022).

11. Learned counsel for the appellant submits that the Arbitral award of the Arbitrator cum Additional District Collector, Gaya is without any legal basis as the nature of land has been changed from agricultural to residential without any valid finding. Competent Authority for Land Acquisition (hereinafter referred to as “CALA”) consequently enhances the compensation so determined at the time of notification of Section 3(A). It is further submitted that in the notification



under Section 3(A) and 3(D), the nature of land was notified as agricultural in nature during acquisition process, the Competent Authority took all necessary steps including examining revenue records actual use as on the date of 3(A) notification and arrived to a conclusion that the land was agricultural in nature. On the basis of materials available on record, the competent Authority of land acquisition declared the land to be of agricultural in nature. The compensation of land was granted on the market value of the land on the date of publication of notification under Section 3(A) as determined by CALA.

12. Learned counsel for the appellant vehemently submitted that the Arbitrator failed to determine the amount as mandated under the NHAI Act, 1956, therefore, the award passed by the Arbitrator is perverse.

13. Learned counsel for the appellant submitted that the Arbitrator has wrongly changed the nature of land fixed by the Competent Authority. Moreover, the learned Additional District Judge also failed to consider the provision contained in Section 3 of the Bihar Agriculture Land (Conversion for Non-Agriculture Purposes) Act, 2010.

14. Learned Additional District Judge failed to consider that the Arbitrator himself went to the land in question



without any notice to the appellant and recorded a finding that the land is a residential land.

15. Learned counsel further contended that in these cases, the land cannot be treated as residential land, it was never converted and the land usage was never changed in accordance with the provisions of the Bihar Agriculture Land (Conversion for Non-Agriculture Purposes) Act, 2010. It is submitted that in the *Khatiyar*, the land is shown as agricultural land and there was no conversion of land usage prior to the notification under Section 3-A of the NHAI Act.

16. Learned counsel for the appellant has assailed that the Award dated 05.04.2018. It is contended that under Section 3(G) of the NHAI Act, 1956, the competent authority under Sub-section 1 or 2 of Section 3(G) is obliged to determine the amount and if the said amount is not acceptable to either of the parties, the amount shall, on application by either of the parties, be determined by the Arbitrator. Therefore, the statutory mandate to the Arbitrator is to determine the correct/real amount, which means the Arbitrator has to not only decide the nature of the land but also the applicability of the rate/market value of the land keeping in mind the consideration as provided under Section 3(G) of the NHAI Act. It is further contended that



the Arbitrator cannot delegate its own power when the statute doesn't permit for the same. In the present cases, the Arbitrator has not determined the actual amount. He has only recorded a finding that the land, in question, is residential land and directed the Competent Authority-cum-Land Acquisition Officer to measure the acquired land and structure standing over acquired land and fix the compensation amount on the basis of residential MVR. It is submitted that the Arbitrator ought to have resorted to Section 26 of the Arbitration Act by appointing an expert to get the land examined and submit its opinion with respect to the status of the land as on the date of notification under Section 3-A of the NHAI Act. This principle has not been followed by the Arbitrator. It is, thus, submitted that the arbitral Award is perverse and non-observance of the procedure established by the law would render the Award bad in law as against the fundamental legal principle. Thus, it is fit to be set aside. The learned court below has not appreciated this aspect of the matter while considering the objection made to the Award. Learned counsel for the appellant further submitted that the same question has been raised in the case of *National Highway Authority of India Vs. Vijay Kumar Singh & Ors.* passed in *Miscellaneous Appeal No. 651 of 2021*. The single Bench of



this Court has set aside the judgment and order passed by the learned Additional District Judge as well as Award passed by the Arbitrator and remanded the case to the Arbitrator to conduct the Arbitration in accordance with procedure provided under the Act of 1996 and pass an award in accordance with law. However, the said order of this Court has been challenged in SLA (C) 10116 of 2023 by the aggrieved party.

17. Learned counsel has very fairly informed the Court that a *Status quo* order has been passed to maintain the possession as existing till date and till the next date of hearing as ordered by the Apex Court in **SLA (C) 10116 of 2023**, the issue involved in that case has not been finally decided by the Hon'ble Apex Court till date.

18. On the other hand, learned counsel for the respondent/land holder vehemently submitted that the land holder's land is situated near the National Highway-83 and a hotel is being established over the land. The Tourist Department, Government of Bihar, sanctioned a subsidy of Rs. 5 lakhs for upgrading the said hotel which was given on 27.03.2014. It is further contended that under the same land acquisition proceeding similarly situated person has been granted commercial rate and at the same time, the present respondents'



compensation has been calculated on the basis of classifying it as agricultural land. Before passing of the present Award, the Arbitrator, after due notice, upon physical verification, found construction over the acquired land of the respondent/land holder and on that basis the Arbitrator directed the Authority concerned to calculate the compensation amount on the basis of residential land. Though, respondents/land holder claims that the acquired land is a commercial land and other similarly situated persons have been granted commercial rate of compensation, the appellant filed Civil Miscellaneous (Arbitration) Case No. 57 of 2018/05 of 2019 (appellant in M. A. No. 130 of 2022) and Civil Miscellaneous (Arbitration) Case No. 49 of 2018/14 of 2019 (appellant in M.A. No. 163 of 2022) before the learned Additional District Judge-III, Gaya before calculation of compensation amount. It is vehemently submitted that “Ashirvad Hotel” was constructed over the acquired land by the respondent in the year 2000 itself. A subsidy of Rs. 5,00,000/- (Rs. Five lakhs) was sanctioned by the Tourism Department, Government of Bihar on 27.03.2014 whereas respondent in M.A. No. 163 of 2022 has constructed a pucca house over his land in the year 2000 and the area where the land in question is situated is commercial. The area where the hotel and house are



situated were being used for commercial purposes and every building just adjacent to the house of the respondent commercial work was/is being done, therefore, the Bihar Agriculture Land Act, 2010 is not applicable in the present case.

19. Learned Additional District Judge after hearing the parties and considering the materials on record has held that the direction of the Arbitrator given to the competent authority for determination/calculation of the compensation on the basis of residential MVR after measurement of the land occupied by the structure and after his satisfaction that the structure was raised before the date of notification under Section 3-A of the NHAI Act is in consonance of the stand taken by NHAI in paragraph no. 8 of the objection petition. Until the competent authority in-compliance of the above direction of the Arbitrator determines the compensation, the NHAI has no grievance, its petition under Section 34 and 34(1) of the Act is premature and not maintainable.

20. However, during the pendency of this appeal, the Competent Authority-cum-Land Acquisition Officer has calculated the compensation amount considering it as residential land and prepared the compensation chart. The respondent/land holder submits that the nature of land is commercial but the



Arbitrator has considered it as residential in nature. Since, no Miscellaneous Case or Appeal has been filed by the land holder, the said claim as residential in nature can not be considered in the present appeal.

21. Having considered the materials on record and submissions of the parties, it is necessary to deal with the provision with regard to the market value defined under Section 3G of the NHAI Act. In the present case, the question of nature of land could be considered in determining the market value under Section 3G of the NHAI Act. Section 3G of the NHAI Act deals with the determination of the amount payable as compensation for the land acquired under the Act. The factors to be considered while determining the compensation, must consider the market value of the land, any damage sustained by the person interested, and reasonable expenses for changing residence for business if applicable. The market value is defined as the price that a willing purchaser would pay to a willing seller for the property considering its existing conditions, advantage and potential possibilities. The nature of land refers to its characteristics including its existing use, type of land (agricultural, residential, commercial etc.) location and any other relevant factors that affect its value.



22. In the process of determination of the compensation, as stated above, guiding facts is mentioned in Section 3-G (7) of the NHAI Act. In the process of determination, the Arbitrator shall follow the provision of the Arbitration Act. The provision under Section to 3G(5) and 3G(6) of the NHAI Act reads as follows:-

“(5) If the amount determined by the competent authority under Sub-section (1) of sub-section (2) is not acceptable to either of the parties, the amount shall, on an application by either of the parties, be determined by the arbitrator to be appointed by the Central Government.

(6) Subject to the provisions of this Act, the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996) shall apply to every arbitration under this Act.”

23. If the amount determined by the competent authority is not acceptable to either party, it can be referred for arbitration, where the Arbitrator will also consider the factors mentioned above including the nature of the land. If either of the parties are not satisfied with the Arbitrator's award, they have to file application before the court, namely District Judge under Section 34 of the Arbitration Act. To redress the further grievance, either party has a right to file appeal under Section 37 of the Arbitration Act 1996 before the High court. Therefore, the



competent authority has to determine the fair market value of the land and compensation with more responsibility and “Arbitrator” has to determine with judicial approach as “Reference Court”.

24. The competent authority shall determine the compensation following the guiding factors mentioned in Sub Section 3-G(7) of the NHAI Act, which reads as follows:-

(7) “The competent authority or the arbitrator while determining the amount under sub-section (1) or sub-section (5), as the case may be, shall take into consideration—

(a) the market value of the land on the date of publication of the notification under Section 3-A;

25. As per Section 3(I) of the NHAI Act, the competent authority to determine the market value can act as a Civil Court with all powers of Civil Court. To determine the market value, no guideline is available either in the form of Rules or notification. Hence, the principle laid down by the Hon'ble Supreme Court under the various acquisition Act, is the guiding factor to determine the market value of the acquired land.

26. It is well settled that market value of a property



has to be determined having due regard to its existing condition with all its existing advantages and its potential possibility when let out in its most advantageous manner. The question whether a land has potential value or not, is primarily one of the facts depending upon its condition, situation, usage to which it is put or is reasonably capable of being put and proximity to residential, commercial or industrial areas or institutions. While determining the market value of the land acquired, it has to be correctly determined and paid so that there is neither unjust enrichment on the part of the acquirer nor undue deprivation on the part of the owner. For determining the market value of the land under acquisition, suitable adjustment has to be made having regard to various positive and negative factors in comparison with the land under acquisition by placing the two side by side. The positive and negative factors are as under:

Positive Factor	Negative Factor
(i) smallness of size	(i) largeness of area
(ii) proximity to a road	(ii) situation in the interior at a distance from the road
(iii) frontage on a road	(iii) narrow strip of land with very small frontage compared to depth
(iv) nearness to developed area	(iv) lower level requiring the depressed portion to be filled up
(v) regular shape	(v) remoteness from developed locality



(vi) level vis-a-vis land under acquisition	(vi) some special disadvantageous factor which would deter a purchaser
(vii) special value for an owner of an adjoining property to whom it may have some very special advantage	

27. Applying the above principles, the competent authority shall determine the market value and compensation by applying judicial mind. He can also examine the witnesses, call for the documents from the revenue authority and make enquiry with revenue officials to determine fair market value and fair compensation.

28. Aggrieved over the said determination, either the land owner or the NHAI may file an application before the Arbitrator to be appointed by the Central Government to determine the compensation. The Arbitrator so appointed shall determine the compensation as per the above stated guiding factors mentioned in Section 3-G(7) of the NHAI Act. In the process of determination, the Arbitrator shall also follow the provision of the Arbitration Act. As per Section of 3-G(5) and 3-G(6) of the NHAI Act.

29. As discussed above, it is clear that the Arbitrator shall determine the compensation as per the guiding factor mentioned in Section 3-G(7) of the NHAI Act, following the



procedure stated in the Arbitration Act, 1996. Therefore, the substantive law is NHAI Act and the procedural law is the Arbitration Act 1996. As per the provision of Section 3G(5) of NHAI Act, as also held by the Hon'ble Supreme Court in the case of ***General Manager (Project), National Highways and Infrastructure Development Corporation Limited vs Prakash Chand Pradhan and Others*** reported in ***2020 (15) SCC 533***, the land owners have no right to seek appointment of Arbitrator. The appointment of Arbitrator is an independent act of the Central Government. In the said process, there is no agreement between the NHAI and land owner. Therefore, the duty cast upon the Arbitrator to determine the compensation, is different from the ordinary arbitration dispute arising in the commercial contract matters. This type of statutory arbitration can not be equated with the functions of the Arbitrator discharging under the agreement entered between the parties to the arbitration and the same was fortified from the following object of the NHAI Act:

“statement of objects and reasons One of the impediments in the speedy implementation of highways projects has been inordinate delay in the acquisition of land. In order to expedite the process of land acquisition, it is proposed that once the Central Government



declares that the land is required for public purposes for development of a highway, that land will vest in the Government and only the amount by way of compensation is to be paid and “any dispute relating to compensation will be subject to adjudication through the process of arbitration.”

30. From the reading of the object, it is clear that the Arbitrator is duty bound to adjudicate the dispute relating to the compensation and determine fair compensation. During the course of the process of adjudication and determination of the compensation, the procedure stated in the Arbitration and Conciliation Act has to be applied. In the said circumstances, the Arbitrator acting as per the provision of the Arbitration and Conciliation Act would adjudicate and determine the compensation. In sum and substance, in the process of determination of the compensation, the procedure of arbitration is thrust upon the land holder without any written agreement to regulate the process of the arbitration and the terms of the right and obligations. Therefore, the arbitration proceedings relating to the determination of the compensation are not governed by the agreement to regulate the process of arbitration. The said deviation is intended to determine the compensation without driving the parties to the Court proceedings, which is charged



with procedural complication and to avoid belated determination of the compensation. The said transformation of the process of the determination of compensation is intended for the speedy measures.

31. “Arbitration” as per the legal definition generally means that:-

“Arbitration is a private form of dispute resolution, however, the arbitral proceedings must meet the juristic requirements of due process and procedural fairness and reasonableness, to achieve a ‘judicially’ sound and objective outcome or award”.

“The amount shall, on an application by either of the parties, be determined by the arbitrator to be appointed by the Central Government.”

32. The above words in the said section itself has its own significance. Therefore, the Arbitrator is acting as a reference authority under the old Land Acquisition Act, and he is duty bound to act as a judicial officer to determine the compensation by following the powers of the Civil Court as stated in the Section 3-I of the NHAI Act. Here, there is no reference to the Arbitrator to resolve the dispute, but statutory obligation has been created to determine the compensation. Hence, there is a vast difference from the ordinary arbitration



dispute arising in the commercial contract matters and this type of statutory arbitration to determine compensation. As a sequel, it can not be equated with the function of Arbitrator discharging his functions under the agreement entered between the parties to the arbitration. Therefore, the scheme of the statutory arbitration under this NHAI Act is different from the commercial arbitration mentioned in the Arbitration Act.

33. The amount required to be paid as compensation is to be first determined. The said duty cast upon both the Competent Authority and the Arbitrator, is to arrive at a fair and just compensation, in order to compensate the land owner, for the reason that they have lost their livelihood. The value of the land rises manifold and the deprivation amounts to violation of the human right to hold property. The constitutional obligation rests upon both the Competent Authority and Arbitrator to determine the fair and just compensation to restore the life of the land holders as per the theory of restitution.

34. The procedure and guidelines prescribed to follow in the process of determination of compensation is prescribed in the NHAI Act itself. Therefore, only at the stage of Section 34 of the Arbitration Act, the land owner gets the first opportunity to avail judicial application of mind in determining the



compensation. Therefore, the objection raised by the NHAI-appellant that the power under Section 34 of the Act is very much limited and the learned Court misdirected itself that the application under Section 34 of the Arbitration Act is pre-mature and it has also been wrongly held by the Arbitrator that the land, in question, is residential land and the nature of land is required to ascertain before the date of notification under Section 3(A) of the NHAI Act. The direction of the Arbitrator given to Competent Authority for determination of the compensation on the basis of residential MVR after measurement of the land over which structure is standing is beyond scope/jurisdiction of Arbitrator. The plea of NHAI that the Arbitrator had acted against the public policy and his decisions suffer from perversity and apparent illegality on the face of the award itself on account of lack of judicial application of mind in determining the compensation on the basis of residential MVR. This Court placed reliance in the case of ***Oil & Natural Gas Corporation Ltd vs Saw Pipes Ltd*** reported in ***(2003) 5 SCC 705*** wherein, the Hon'ble Apex Court has held as follows in paragraph 14 of the said judgment:-

'the settled principle of law that the procedural law cannot fail to provide relief when substantive law gives the right.'



Principle is there cannot be any wrong without a remedy. In M.V. Elisabeth and others v. Harwan Investment & Trading Pvt. Ltd. [1993 Supp. (2) SCC 433] this Court observed that where substantive law demands justice for the party aggrieved and the statute has not provided the remedy, it is the duty of the Court to devise procedure by drawing analogy from other systems of law and practice. Similarly, in Dhanna Lal v. Kalawatibai and others [(2002) 6 SCC 16] this Court observed that wrong must not be left unredeemed and right not left unenforced.'

35. The power of the court under Section 34 of the Act to make the interference with the award is always a factual subject. The same has been observed by the Hon'ble Supreme Court in the latest decision in the case of ***Batliboi Environmental Engineers Limited vs. Hindustan Petroleum Corporation Limited and Another*** reported in (2024) 2 SCC 375. After persuasive discussion of all the earlier decision in paragraph 33, it has been held as follows:-

"33. To disentangle and balance the competing the principles, the degree and scope of intervention of courts when an award is challenged by one or both parties needs to be stated. Reconciliation as a



statement of law and in particular application in a particular case has not been an easy exercise.”

36. From the preceeding paragraph, it is apparent from the fact emerged in the present case that after passing of award, the competent authority calculated the amount as per residential MVR which has not been assailed in the present appeal by the NHAI. The Arbitrator has determined the market value as residential MVR of the land of the land holder on the basis of subsidy (Rs. 5 lakhs) granted to the respondent (Ashirvad Hotel at Sl. No. 3) vide memo no. 799 dated 27.03.2014 issued by the Tourism Department, State of Bihar. The said subsidy was granted on the application filed by the respondent-land holder under Incentive Policy, 2012 for upgradation and standardization of roadside facility such as Dhabas/line hotes/motels etc. operated by non planned projects situated in the identical circuits of the State as well as pucca structure of house consisting of two shops standing over acquired land of respondent no. 1 in M.A. No. 163 of 2022 since the year, 2000. The photographs of the said house and shops are on record. Since the Competent Authority has calculated the compensation for the acquired land on the basis of agriculture MVR, it was necessary for the Arbitrator to direct the competent



authority to calculate the compensation amount on the basis of residential MVR after measurement of the land occupied by the structure after satisfaction of the competent authority that the structure was raised before the date of notification. It is apparent from the records that in compliance of the direction of the Arbitrator, the final amount i.e., Rs. 28,08,918/- to Surendra Prasad Sharma in M.A. No. 130 of 2022 and Rs. 10,55,263/- to Dinesh Sharma in M.A. No. 163 of 2022 has been calculated by the Land Acquisition Officer (CALA) before filing of the present appeal and prepared a chart with regard to the respondent in both the appeals as well as others on the basis of residential MVR. The said chart has been made as Annexure R-1 to the counter affidavit filed by respondent no. 1 (in M.A. 130 of 2022). The said compensation amount has not been challenged by the appellant therefore the calculation on the basis of residential MVR has taken its finality.

37. In view of the above discussion and on the basis of materials available on record and the precedents laid down by the Hon'ble Supreme Court in ***Batliboi Environmental Engineers Limited vs. Hindustan Petroleum Corporation Limited and Another*** reported in (2024) 2 SCC 375, this Court finds no ground to interfere with the said award passed by the



Arbitrator and no interference in impugned order is required.

38. Accordingly, both the appeals are dismissed.

39. The stay granted by this Court on 12.09.2023 is hereby vacated and learned Additional District Judge-III, Gaya is directed to release the deposited compensation amount in favour of the respondent no. 1 in both the appeals after due verification of the respondent no. 1 in both the appeals.

(Khatim Reza, J)

Sankalp /-,
Prabhat /-

U			
---	--	--	--

