

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1236 of 2015

Vijay Prasad S/o Late Jagdev Prasad at present residing at Mohallah Noorpur,
Katra Bazar, P.S. Malsalami, Patna City, Town and District Patna.

... .. Petitioner/s

Versus

1. The Union Of India
2. The Deputy Secretary, Ministry of Road Transport and Highways,
Government of India, New Delhi.
3. The National Highway Authority of India through its Chairman-cum-
Secretary, Ministry of Shipping, R
4. The Project Director, National Highway Authority of India, D-36, Shree
Krishna Puri, Patna.
5. The District Land Acquisition Officer cum Competent Authority, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Dilip Kumar Tewari, Advocate
For the Respondent/s : Mr.Ajau Behari Sinha, GA-8

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

9 07-07-2025

Heard the parties.

2. The present petition has been preferred for :-

*“(i) For issuance of a writ in the nature of Mandamus directing and commanding the respondents to pay the petitioner immediately the compensation for the land of the petitioner pertaining to Plot no. 292, Khata no. 71.Thana no. 40. Mouza Nasirpur Tajpur, Patna Sadar which has been acquired on 21-8-2012 by the respondents in the name of widening/four laning of the N. H. 30 in Patna Bhaktiyarpur, section with all benefits including upto date interest as well as 60% soletium.
(ii) For issuance of an appropriate writ directing and commanding the respondents to give the petitioner also the benefits of the*



findings as well as order of the Learned Arbitrator, Patna passed on 9-4-2013 in L. A. case no. 01/12-13 with regard to the nature of the lands of the aforesaid Mouza Nasirpur Tajpur.

(iii) For any other relief or reliefs of which the petitioner is legally entitled to.”

3. The matter relates to Mauza Nasirpur Tajpur in the District-Patna and the petitioner holds the Plot No.292 in Khata No.71, Thana No.40, which was acquired on 21.08.2012, for the widening of four lane of National Highway-30 (Patna-Bakhtiyarpur Section).

4. The matter was heard earlier by a Bench of this Court (Hon'ble Mr. Justice Vikas Jain, as his Lordship then was) on 14.11.2017 and the concerned coordinate Bench took note of the fact that the land of the petitioner belongs to the same place where the Arbitrator vide an order dated 09.04.2013 has passed an order in the Arbitration Case No.01 of 2012-13. Considering the commercial potentiality, the compensation amount was fixed @ 1,10,000/- per decimal.

5. Learned counsel for the petitioner submits that such benefit was not extended to him, though he concede that the petitioner failed to approach the arbitrator.

6. The order dated 14.11.2017 passed by the



coordinate Bench is incorporated hereinbelow:-

“The petitioner claims compensation in respect of the acquisition of his land comprising of Plot No. 292, Khata No. 71, Thana No. 40, Mouza Nasirpur Tajpur, Patna Sadar which has been acquired.

2. Learned counsel for the petitioner invites attention to the order of the Arbitrator dated 09.04.2013 passed in Arbitration Case No. 01 of 2012-13 (Annexure-5) wherein, inter alia, it has been held that the concerned lands had commercial potentiality and accordingly, further amount of compensation at the rate of Rs. 1,10,000/- per decimal was determined to be paid to the concerned applicants.

3. Learned counsel for the petitioner submits that his land falls within the same area and he is accordingly eligible for the similar benefit.

4. Learned counsel for the State invites attention to paragraph 5 of the counter affidavit filed on behalf of the respondent no. 5 to the effect that in view of the order of the Arbitrator dated 09.04.2013 referred to above having declared all the plots acquired in Mauza Nasirpur Tajpur vide notification dated 14.07.2010 and 14.09.2012 as commercial land, the amount of compensation has been recalculated and the respondent-NHAI has been requested to make available the compensation



amount as recalculated.

5. Learned counsel for the respondent-NHAI submits that the order of the Arbitrator has been passed in the case of other persons whose lands have been acquired and the petitioner has a similar remedy by approaching the Arbitrator for obtaining appropriate orders in regard to his land which has been acquired.

6. This Court is unable to appreciate the stand of the respondent-NHAI. It is not in dispute that the Arbitrator in his order dated 09.04.2013 has held the entire lands in Mauza Nasirpur Tajpur to be commercial land, which is the stand taken by the State. It is also not in dispute that the petitioner's land is situated in the concerned Mauza Nasirpur Tajpur. Prima facie, learned counsel for the respondent-NHAI is unable to satisfy as to what useful purpose will be served by requiring the petitioner to obtain a separate order from the Arbitrator when the issue has already been decided by order dated 09.04.2013 as aforesaid. The said order of the Arbitrator has not been challenged by the NHAI and has attained finality.

7. In the above view of the matter, learned counsel for the respondent-NHAI seeks some time to ascertain whether the benefit of the order of the Arbitrator can be extended to the file, a petitioner as well and counter affidavit accordingly.



8. As prayed, let the matter be listed on 06.12.2017”

7. The perusal of the said order dated would show that the Court was of the opinion that when the Arbitrator has taken certain decision with regard to same set of land at Nasirpur Tajpur, there is no reason to send every individual before the Arbitrator. It noted that the respondent ‘the NHAI’ is unable to satisfy as to what useful purpose is served by requiring the petitioner to obtain a separate order from the Arbitrator, when the issue stands settled. The Court further noted that the said order of the Arbitrator has not been challenged by ‘the NHAI’ and has attained finality. In that background ‘the NHAI’ was directed to file supplementary counter affidavit fixing the date on 06.12.2017.

8. As stated, the matter was taken up on 07.12.2017. On 13.03.2018, when the matter was taken up, two weeks’ time was requested by ‘the NHAI’ for filing supplementary counter affidavit.

9. Seven years later, when the matter has been taken up, today the same prayer is being made. Clearly, the NHAI is buying time.

10. The contention of the learned counsel for the petitioner is that while others are enjoying fruits, he is still



waiting for a decision in the matter.

11. As recorded above a co-ordinate Bench of Patna High Court on 14.11.2017 wanted the NHAI to file reply; eight years later, the same has not been filed. Clearly, by not filing the affidavit, 'the NHAI' has accepted the contention of the petitioner which finds incorporated in the order dated 14.11.2017 by the co-ordinate Bench.

12. In that background, the writ petition is allowed with cost. 'The NHAI' which has not challenged the order dated 09.04.2013 of the Arbitrator, as recorded above and also incorporated in the order dated 14.11.2017 is duty bound to consider the claim of the petitioner and to make payment to him, if still not being paid in next four months.

13. The cost quantified against 'the NHAI' is Rs.10,000/- to be paid to the petitioner. Failure to do so, appropriate steps should be taken for realisation of the amount in accordance with law.

14. Pending Interlocutory Application(s), if any also stand(s) disposed of.

(Rajiv Roy, J)

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