

FMAT 471 of 2019

Namita Debnath & Anr.

Vs.

The National Highways Authority of India & Ors.

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Mr. Arghadip Das

... For the Appellants

Ms. Manika Roy

... For the NHAI

1. Similar appeals and connected applications being FMA 911 of 2019 with CAN 2 of 22 with CAN 3 of 2022 with FMA 1017 of 2019 with MAT 24 of 2019 with FMA 588 of 2019 with CAN 3 of 2022 with FMAT 817 of 2019 with CAN 2 of 2022 with FMA 585 of 2019 with CAN 3 of 2022 with FMA 584 of 2019 with CAN 3 of 2022 with FMA 586 of 2019 with CAN 3 of 2022 with FMA 1016 of 2019 were disposed of by a coordinate bench on 25th April, 2024. This appeal being FMAT 471 of 2019 is identical to the matters which were disposed of on 25th April, 2024. However, the present appeal was inadvertently not included in the said order dated 25th April, 2024.

2. It appears that on the basis of disposal of FMA 587 of 2019 with FA 34 of 2022 with FMA 1667 of 2019 with FMAT 839 of 2019 on 5th January, 2024 by a coordinate bench, the aforesaid appeals along with connected applications were disposed of by the same coordinate bench on 25th April, 2024, as the facts involved were similar. The following

order was passed on 5th January, 2024:-

All these four appeals are being disposed of by this single judgment and order as common questions of fact and law are involved.

Large tracts of land in Mouza – Tatla and Debogram in Nadia district were acquired under the National Highways Act, 1956 for widening National Highway 34.

As required by the said Act, the amount of compensation was determined by the competent authority under Section 3(G) of the said Act. Aggrieved by the determination made by the competent authority, the land losers referred the matter to arbitration under Section 3G(5) of the said Act. In the award the learned arbitrator held that the value of the land per acre would be uniform and also enhanced the value per acre as determined by the competent authority to Rs.70,00,000/- and odd per acre.

Aggrieved, the National Highways Authority challenged the award before the learned District Judge, Nadia.

By the impugned judgment and order dated 28th September, 2018 the learned judge upheld the award to the extent that the value of the said land should be uniform while calculating compensation but set aside the award with regard to its valuation at Rs.70,00,000/- and odd per acre on the ground that there was no basis for it.

Each of these appeals has been preferred from the said judgment and order dated 28th September, 2018. National Highways Authority is aggrieved by both the findings in the

impugned judgment and order relating to uniformity in valuation and the rate at which each unit is to be valued. The land losers are aggrieved by the part of the award setting aside the valuation.

These appeals have been pending in this court for several years.

The net effect of this pendency is that neither the National Highways Authority has been able to utilize the land for the widening of National Highway 34 nor the compensation payable to the land losers finally determined, although they have received the compensation determined by the competent authority.

We are of the view that the ends of justice would be subserved if this matter is remanded to the learned District Judge, Nadia to rehear and re-determine the matter. We order accordingly. The learned District Judge is directed to record specific findings whether the value of the land acquired would be uniform or not and if not uniform, the values of different areas. A determinator should also be made with regard to the value per acre for the whole area if it is held that the valuation would be uniform and the value per acre for specific areas, if it is held that the values would not be uniform. In that way, the total amount of compensation payable could also be assessed so that this matter pending for a long time attains finality once and for all. Even if this amount to modifying the award, we would permit it for the cause of substantial justice.

It would be open to the National Highways Authority to approach the learned District Judge for appropriate orders with regard to taking possession of the land. The application if made shall be considered in accordance with the provisions of the National Highways Act, 1956.

We request the learned District Judge to dispose of the application to set aside the award 6 within three months of communication of the order.

The appeals are disposed of by this order”.

3. The appeals along with connected applications were disposed of on 25th April, 2024 on the basis of the aforesaid order with the following observations:-

“In those circumstances, we dispose of each of the above appeals in the cause title by passing an order identical to the one, we passed on 5th January, 2024, as if, the said order was incorporated in this order.

The registry of this Court is directed to return the lower court records immediately to the court below.”

4. Under such circumstances, we pass the similar direction, as if the order dated 25th April, 2024 is incorporated in this order, to dispose of this appeal for setting aside of the award. However, in view of the fact that the TCR has not been sent down, we request the learned District Judge, Nadia, to dispose of the application for setting aside of the award within three months from the

date of communication of this order by either of the parties.

5. The TCR shall be sent down forthwith.

6. In view of the above, the appeal being FMAT 471 of 2019 stands disposed of.

7. Urgent Photostat copy of this order, if applied for, be given to the parties on usual undertaking.

(Soumen Sen, J.)

(Biswaroop Chowdhury, J.)

