

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7172 of 2023

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Rina Devi @ Reena Devi Wife of Jiban Kumar @ Jeevan Kumar Resident of
Village- Hisua, P.S.- Hisua, District- Nawada.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Arbitrator-cum-Commissioner, Magadh Division, Gaya.
3. The District Magistrate, Nawada.
4. The District Land Acquisition Officer, Nawada.
5. The Additional Collector, Nawada.
6. The Chief Manager, (Tech.), Bihar State Road Development Corporation Limited (B.S.R.D.C.L.), Project Complementation Unit, Rajgir at Gaya.
7. The Additional Chief General Manager (Tech.), Bihar State Road Development Corporation Limited (B.S.R.D.C.L.), Project Complementation Unit, Rajgir at Gaya.
8. The Sub Divisional Officer, Nawada.
9. The Circle Officer, Hisua (Nawada), District- Nawada.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Anil Kumar
For the State	:	Mr. Nwtan Sahay, A.C. to AAG-12.
For respondent No. 6 & 7	:	Mr. P.K. Shahi, Sr. Advocate Mr. Manish Dhari Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL JUDGMENT

Date : 10-03-2026

Heard the parties.

2. The petitioner has prayed for grant of following
relief :-

*“1. That this is an application for issuance
of an appropriate writ / writs directing the respondent
authorities for compliance of the order dated
23.08.2022 passed in Arbitration Case No.225 of
2020 by the Arbitrator-cum-Commissioner, Magadh
Division, Gaya (respondent No.2) in which the award*



No.27 decided by competent authorities-cum-Land Acquisition Officer, Nawada (respondent No.4) in Land Acquisition Case No.02 of 2019-20 with respect to the land appertaining to Khata No.126, Plot NO.200 has been cancelled with respondent No.4 has been directed to decide the award by treating land in question, as a residential land in place of agriculture land in the light of letter no.5021 dated 18.12.2017 issued by Registrar General, Bihar, Patna and letter no.150/89 dated 15.02.2018 issued by Principal Secretary, Revenue and Land Reforms as also Rule 26 of RFCTLARR Act, 2013.

3. The matter relates to a piece of land under Circle Panchu, Thana No.63, Khata No.126, Khesra No.200 (10 decimal) in the district of Nawada. The said land of the petitioner was acquired for construction of Gaya Hisua Rajgir Highway (NH-82) and considering her land to be agricultural, the award was prepared.

4. Aggrieved by the said categorisation of land, the petitioner moved before the Arbitrator-cum-Commissioner, Magadh Division, Gaya in Arbitration Case No.225 of 2025 (Rina Devi Vs. Competent District Land Acquisition Officer, Nawada and others). After hearing the parties, the Arbitrator vide order dated 23.08.2022 came to the conclusion that the land of the petitioner has been wrongly categorized and it should be under



residential one. Accordingly direction was given to make payment considering it to be a residential land (Annexure 3 to the petition).

5. Now, the petitioner has come for its execution by filing the writ petition.

6. Learned counsel representing the Bihar State Road Development Corporation Ltd. (hereinafter referred to as the 'Corporation') submits that aggrieved with the said order dated 23.08.2022, the Corporation has preferred **Misc. (Arbitration) Appeal Case No.08 of 2023**, which came to be dismissed for default on **19.01.2024**. Thereafter, they preferred restoration petition bearing **Misc. No.1 of 2026** which is presently pending.

7. Learned counsel representing 'the Corporation' further submits that in any case, under Section 36 of the **Arbitration and Conciliation Act, 1960** (hereinafter referred to as the 'Act') power of enforcement of the order has been given to the Arbitrator.

8. The further submission is that the **Division Bench** also took the same view in the case of **Project Director, National National Highway Authority, Araria and Anr. Vs. Md. Gufran Alam and Ors.** in **L.P.A. No.1289 of 2011** disposed of on **16.08.2013**.



9. It is appropriate to incorporate **Section 36 of ‘the Act’**

which reads 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):]

[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;



(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).]

10. This Court further records the order of the Division Bench of the Patna High Court in the case of **Project Director, NHAI, Araria** (supra) case and concluding paragraph records as under :-

“We may look to the certain provisions of the Act of 1956 and the Act of 1996 which are relevant for resolution of dispute before us. Section 3-G of the Act of 1956 provides for determination of amount of compensation by the Competent Authority. Sub-section (5) thereof empowers either of the parties aggrieved by the award of the Competent Authority to seek arbitration against such award. Sub-section (6) of Section 3-G of the said Act provides that the proceeding before the Arbitrator shall be regulated by the provisions contained in the Act of 1956. Section 3-11 of the Act of 1956 provides for deposit and payment of amount. Sub-section (1) thereof provides for deposit of the amount of compensation with the Competent Authority. Sub-section (2) thereof provides for payment of the amount to the claimants. Sub-section (6) thereof provides for deposit of the amount of difference



in compensation awarded by the Arbitrator. It is this sub-section (6) which is pressed into service by the writ petitioner.

As recorded hereinabove, the proceedings before the Arbitrator are governed by the Act of 1996. Section 34 of the Act of 1996 provides for a remedy against the arbitral award by an application for setting aside the arbitral award before the Court. The "Court" is defined under Clause (e) of sub-section (1) of Section 2 of the Act of 1996 to mean, "the principal civil Court of original jurisdiction in a district, and includes the High Court in exercise of its ordinary original civil jurisdiction, having jurisdiction to decide the questions forming the subject-matter of the arbitration if the same had been the subject-matter of a suit, but does not include any civil Court of a grade inferior to such principal civil Court, or any Court of Small Causes." Hence, it is evident that the remedy against the arbitral award lies before the civil Court. Section 36 of the Act of 1996 provides for enforcement of the arbitral award under the Code of Civil Procedure, 1908 in the same manner as if it were a decree of the Court. Thus, the statutory remedy for enforcement of the arbitral award made under Section 3-G (5) of the Act of 1956 lies before the civil Court.

In view of the statutory remedy for execution of the arbitral award being available, a petition under Article 226 of the Constitution would not lie. The learned single Judge has erred in entertaining the writ petition under Article 226 of the Constitution in the subject matter.

For the aforesaid reason, the Appeal is allowed. Impugned order dated 20th May 2011 made on



C.W.J.C. No. 7179 of 2011 is set aside. C.W.J.C. No. 7179 of 2011 is dismissed.

(Emphasis added)

11. This Court has taken note of the fact that the **Arbitrator** passed the order on **23.08.2022** and ‘the Corporation’ preferred a petition challenging the order only on 02.06.2023, i.e., after nine months.

12. In this context, this Court must take note of the Section 34(3) of ‘the Act’ which reads as follows :-

“34(3) An application for setting aside may not be made after three months have elapsed from the date on which the party making that application had received the arbitral award or, if a request had been made under section 33, from the date on which that request had been disposed of by the arbitral tribunal:

Provided that if the Court is satisfied that the applicant was prevented by sufficient cause from making the application within the said period of three months it may entertain the application within a further period of thirty days, but not thereafter.

13. This Court has taken note of the submission of the the learned counsel for the petitioner that the petition has been filed beyond time, however, as it is presently pending before a competent Court, it refrains from making any further comment.



14. However, **Section 36 of ‘the Act’** clearly protects the petitioner. An order has been passed in his favour and the land has been categorized as **residential**. In that background, it would be appropriate that she approaches the **Arbitrator-cum-Divisional Commission, Magadh Division, Gaya** for the enforcement of the **Award** under **Section 36 of ‘the Act’**.

15. With the aforesaid observation and direction, this writ petition is disposed of.

(Rajiv Roy, J)

sanjeev/-

AFR/NAFR	AFR
CAV DATE	
Uploading Date	14.03.2026
Transmission Date	

