

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15938 of 2023

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Murari Prasad S/o Mungalal Prasad Resident of Vilalge-Hansrajppur Ekma,
P.O. and P.S. Ekma, District-Saran (Chapra).

... .. Petitioner/s

Versus

1. The National Highway Authority of India (NHAI) through the Project Director, Project Implementation Unit (PIV) Saran having Office at Prabhunath Nagar (Near Dahiawan Tola) P.O. Head Post Office Chapra District-Saran.
2. The Commissioner Saran Division Cum Arbitrator Saran at Chapra Town P.O.-H.P.O. Chapra District Saran.
3. The District Land Acquisition Officer Saran at Chapra Town P.O.-H.P.O. Chapra District Saran.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Rajani Ranjan Pd. Singh, Advocate
For the Respondent/s : Mr.Sajid Salim Khan (SC 25), Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 19-04-2024 Heard learned counsel for the petitioner, State as also

learned counsel appearing on behalf of the NHAI.

2. The present writ petition has been preferred for:

*issuance of an appropriate
writ/order/direction to quash the order dated
23.09.2022 passed in Appeal No. 13/2021 by the
Commissioner, Saran Division cum Arbitrator
(respondent no. 3) whereby the petitioner's Appeal
No. 13/2021 has been dismissed in default.*

3. The petitioner being aggrieved by the decision
taken by the competent authority, the DLAO, Saran, Chapra



relating to his land, Khesra No. 3408. So far as its classification is concerned, he moved before the Arbitrator, Saran Division, Chapra in Arbitration Case No. 13/2021. However, having been failed to appear in number of dates, the same was dismissed for non-prosecution on 23.09.2022.

4. Aggrieved, restoration petition was preferred vide number 04/2022 and taking into account that he do not have power to restore the petition, the said petition was rejected by the Commissioner, Saran Division, Chapra.

5. Paragraph nos. 7.3 to 7.6 read as follows:

“7.3 Pursuant to the construction of Chhapra Gopalganj section of NH-85 (New NH-531) section, gazette notification S.O. 2706 (E) dated 21.08.2017 under sub-section (1) of section 3A of the National Highway Act, 1956 (herein after referred to as "the NH Act") was published. The said 3A gazette notification was published on 27.09.2017 in the newspapers "DanikJagran" and "Hindustan" both in Hindi.

7.4. In the aforesaid 3A gazette notification, the Petitioner's land having Khata No. 201, Khesara No.-3048, situated in Mauza-Ekma, in Saran District was notified and categorised as developing land.



7.5 Subsequently, Gazette Notification no. S.O. 319 (E) dated 19.01.2018 under sub-section (1) of section 3D of the NH Act was published. The Petitioner's land in dispute was also acquired and the same was published in the aforesaid Gazette Notification under sub-section (1) of section 3D of the NH Act.

7.6. In the aforesaid 3D gazette notification, the Petitioner land having Khata No. 201, Khesara No.-3048, Area-0.026 Hectare, situated in Mauza-Ekma, in Saran District, was also acquired for the Construction of the Chhapra Gopalganj section of NH-85 (New NH-531) section and the Petitioner's land was categorized as Developing land in the 3D gazette notification dated 19.01.2018.”

6. It has been incorporated in paragraph no. 8 that if the petitioner is still aggrieved, he has remedy to move under Section 34 of the Arbitration and Conciliation Act, 1996 (henceforth for short 'the Act').

7. This counter affidavit was filed on 10.01.2023 after serving a copy upon the learned counsel for the petitioner and there is no rejoinder/rebuttal to the said statement.

8. The NHAI has clarified the reason for classifying



the land of the petitioner and if he is aggrieved and his case has been rejected though on technical ground by the Arbitrator, he still has remedy to move under Section 30 of 'the Act'.

9. It would be appropriate that the petitioner approach the concerned Court, if he so wants.

10. The petitioner submits that he will be availing that liberty.

11. Granting such liberty, the writ petition stands disposed of. It has to be taken into account that the petitioner had preferred writ petition and as such, in case there is any delay, it has to be considered in the aforesaid circumstances.

(Rajiv Roy, J)

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