

(2019) 12 PAT CK 0103

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 23148 Of 2019

Ashok Kumar And Anr

APPELLANT

Vs

Union Of India Through And Ors

RESPONDENT

Date of Decision : 02-12-2019

Acts Referred:

National Highways Act, 1956 — Section 3(G), 3(H)(3)

Citation : (2019) 12 PAT CK 0103

Hon'ble Judges : Ahsanuddin Amanullah, J

Bench : Single Bench

Advocate : Birendra Kumar Singh, Vijay Kumar, Md. Khurshid Alam, Anshay Bahadur Mathur, S.N. Pathak

Final Decision : Disposed Of

Judgement

1. Learned counsel for the petitioners; learned AC to AAG 12 for the State; learned counsel for the National Highway Authority of India (hereinafter referred to as the 'NHAI') and learned counsel for the Union of India have assisted the Court.

2. The petitioners have moved the Court for the following reliefs:

"I. For issuance of writ in the nature of mandamus commanding the respondent to give notice under section 3G of NH Act 1956 to the petitioners who are bonafide raiyat of the land in question.

II. For further direction(s) to the authority concern to pay adequate compensation to the petitioners.

III. For passing any other order(s) direction(s) or appropriate writ(s) in the facts and circumstances of the instant case."

3. Basically, the grievance of the petitioners is that despite land appertaining to Khata No. 102, Plot No. 3027, admeasuring 194 sq. metres, in Mauza- Shahpur, Thana No. 566, in the district of Aurangabad which has been used for

construction of National Highway-2 on the Grand Trunk Road, neither the proceedings were started in their name nor the award has been prepared in their name. The stand is that their father had purchased the land, which is a part of a larger area of 10 decimals, in the year 1979 and the same was also mutated in his name. It was submitted that in January, 2013, their father died leaving them as heirs and they were coming in peaceful possession of the land in question but a portion of the same was acquired and them representing before the Collector, Aurangabad as well as the competent authority-cum-LRDC, Aurangabad, award was prepared in favour of Ram Rekha Singh whose wife is respondent no. 8 in the present proceeding.

4. Learned counsel for the Union of India and NHAI submitted that under the National Highways Act, 1956 (hereinafter referred to as the 'Act'), the petitioners still have a remedy despite the award being prepared in the name of another person to move under Section 3-H(3) of the Act.

5. In view thereof, learned counsel for the petitioners submitted that the writ petition be disposed off with liberty to the petitioners to move before the competent authority under the aforesaid Section of the Act.

6. Having regard to the aforesaid, the writ petition stands disposed off with liberty to the petitioners to file a detailed representation before the competent authority under Section 3-H(3) of the Act, enclosing all relevant materials in support of their claim. If the same is done within four weeks from today, the competent authority, who learned counsel for the NHAI submitted is the Collector, Aurangabad (respondent no. 5), he shall look into the matter and dispose off the same by hearing all interested parties expeditiously and latest within two months of filing of the representation before him. If it is held that the petitioners are entitled to the compensation for the land in question, the amount shall be paid to them within one month from the date of passing of the order by the Collector, Aurangabad.

7. For the ends of justice, the Court deems it appropriate to direct that the amount of compensation, as per the award prepared, if already not paid, shall not be paid to any person till the time the matter is decided by the Collector, Aurangabad in terms of the direction issued hereinabove.

8. Learned counsel for the petitioners shall communicate the order to the Collector, Aurangabad for compliance.