

(2018) 10 RAJ CK 0054

In the Rajasthan High Court

Case No : Civil Writ No. 15966, 15967, 15968 of 2018

Naru, Naru Lal @APPELLANT@Hash Union Of India & Ors

Date of Decision : 11-10-2018

Acts Referred:

National Highways Act, 1956 — Section 3G
Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Ordinance, 2014 — Section 105(3)

Citation : (2018) 10 RAJ CK 0054

Hon'ble Judges : Sandeep Mehta, J

Bench : Single Bench

Advocate : Chaitanya Gahlot, Vineet Sanadhya

Final Decision : Disposed Off

Judgement

Issue notices to the respondents. Shri Vinit Sanadhya, Advocate accepts notices. The matters are being heard and finally decided today itself in view

of the statement made at bar that the controversy involved in these writ petitions is squarely covered by the decision of a Coordinate Bench of this

Court rendered in Man Singh & Ors. Vs. UOI & Ors. (S.B. Civil Writ Petition No.13114/2016) decided on 27.03.2017 wherein, this Court held thus:-

1. By way of this writ petition, the petitioners are seeking directions to the respondents to re-determine the amount of compensation and other

benefits awarded by the competent authority for the land acquired, while complying with the provisions of Right to Fair Compensation and

Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short "the Act of 2013").

2. The facts relevant are that the petitioners' land was acquired under the provisions of National Highways Act, 1956 (for short "the Act of

1956"). The competent authority determined the compensation in terms of the

provisions of Section 3G of the Act of 1956. Precisely, the grievance of the petitioners is that the award in question having been passed by the competent authority after 31.12.14 by virtue of sub-section (3) of

Section 105 inserted vide the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment)

Ordinance, 2014, reincorporated vide the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement

(Amendment) Ordinance, 2015 and the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement

(Amendment) Second Ordinance, 2015, promulgated by the President of the Republic of India, the determination of the compensation was required to

be made in accordance with the provisions contained in First Schedule of the Act of 2013 whereas, the compensation has been determined by the

competent authority keeping in view the provisions of Section 3G of the Act of 1956.

3. It is not disputed by the counsels appearing for the Union of India and the National Highway Authority before this court that by virtue of provisions

of sub-section (3) of Section 105 of the Act of 2013 in force at the relevant time, the competent authority was required to determine the compensation

payable to the petitioners for the land acquired, taking into consideration the components as set out in the First Schedule of the Act of 2013.

4. As a matter of fact, the issue regarding applicability of the provisions of the Act of 2013 for determination of compensation in cases where land

acquisition proceedings were initiated under the Act of 1956 but, award has not been declared till 31st of December, 2014, was considered by the

Ministry of Road Transport & Highways and vide circular dated 3rd of February, 2016, while accepting the legal opinion tendered by Additional

Solicitor General of India, it has been clarified that even where the award of compensation under Section 3G of the Act of 1956 was declared by

competent authority on or before 31st of December, 2014 but compensation in respect of majority of the land area notified in the relevant 3A

notification was not deposited in the account of beneficiaries on or before 31st of December, 2014, all the beneficiaries shall be entitled to

compensation in accordance with provisions of the Act of 2013.

5. It is not disputed that in the instant case, the award has been passed after

31.12.14 and therefore, even otherwise, as per the categorical stand taken by the Union of India and the National Highways Authority by virtue of provisions of sub-section (3) of Section 105 of the Act of 2013 in force at the relevant time, the compensation payable to the petitioners for the land acquired has to be redetermined as per the provisions of the Act of 2013.

6. In this view of the matter, the writ petition is disposed of with the directions to the respondents to re-determine the amount of compensation payable to the petitioners in accordance with the provisions of the Act of 2013. The entire exercise shall be completed within a period of three months from the date of receipt of certified copy of this order. No order as to costs.â??

Learned counsels for the parties state that in the present bunch of cases also, the award has been passed after 31.12.2014 and therefore, the controversy is squarely governed by the decision referred above. In view of the above submissions, admitted factual and legal scenario, these writ petitions are also disposed of in terms of the order dated 27.03.2017 passed by a Coordinate Bench of this Court rendered in Man Singhâ??s case (supra). In case, any rival claims are received for the amount of compensation, the competent authority shall objectively consider the same before directing disbursal of the amount, as per law. Stay applications are also disposed of. A copy of this order be placed in each file.