



IN THE COURT OF PRINCIPAL DISTRICT JUDGE-MUZAFFARPUR.

Civil Court, Muzaffarpur

District: Muzaffarpur.

Civil Miscellaneous Case no.55/2023

(U/s 34 of the Arbitration and Conciliation Act,1996)

1. Ramanand Singh, aged about 55 years
Son of late Ram Pratap Singh
R/o village-Bhusra, P.S. Gaighat,
District- Muzaffarpur

Applicant.

Versus

1. The District Land Acquisition Officer, Muzaffarpur.
2. The Project Manager, National Highway Authority of India,
Muzaffarpur, Bihar.

Opposite Parties.

Learned Counsel for the petitioner: Sri Bibhuti Nath Jha, Advocate.

Learned Counsel for the O.P.No.1: Sri Nirbhay Kumar, A.G.P.

Learned Counsel for the O.P. No.2: Sri Laliteshwar Mishra, Advocate.

ORDER
25.05.2026

1. The present miscellaneous case has been filed by applicant/petitioner Ramanand Singh, son of late Ram Pratap Singh, R/o village-Bhusra, P.S.

Gaighat, District- Muzaffarpur against the Arbitral Award dated 25.01.2023, passed in Arbitration Case No. 21/2022, by the Arbitrator cum Commissioner, Tirhut Division, Muzaffarpur, whereby and where-under the Arbitrator held that the compensation paid by the DLAO, Muzaffarpur, is according to law and that it needs no interference on his behalf.

2. Before examining the legal position, it would be appropriate to set out the facts in brief. Pursuant to the Gazette Notifications issued under Section 3-A and 3-D of the NH Act, total 21 decimal of applicant's land notified as "Commercial" in nature, was acquired for NH-527 C Majhauri Chauraut construction. Out of the total land, 12 decimal was from Khata No.163, Khesra No.583 and 585, situated in Village-Hasna Gadhir, Thana No.141 in Gaighat Anchal and 09 decimal from Khata No.544, Khesra No.953 situated in village-Bhusra, Thana No.140, Gaighat Anchal, district-Muzaffarpur.

It is the case of the applicant that though the land acquired, were of commercial nature, as admitted by the opposite parties themselves and as reflected from the notification under Section 3A and 3-D of the NHA Act 1956, wherein the land is mentioned as Commercial, he was paid compensation at "Awasiya"/residential rate, instead of commercial.

3. Being dissatisfied with the amount of compensation determined by the DLAO, Muzaffarpur, (Respondent No.1), the applicant filed Arbitration Case No.21 of 2022, before Arbitrator-cum-Commissioner, Muzaffarpur, as provided under section 3G (5) of the NH Act 1956. The commissioner-cum-Arbitrator, upheld the amount of compensation determined by respondent number-1 (DLAO Muzaffarpur) vide order dated 25.01.2023. Aggrieved by the said order, the applicant filed the present case under section 34 of the Arbitration and Conciliation Act 1996, for setting aside the impugned Arbitral Award dated 25.01.2023.
4. The major contention of the applicant is that pursuant to the Gazette Notifications issued under Section 3-A and 3-D of the NH Act, wherein the land was notified as Commercial in nature, the Award was prepared treating

the nature of land as residential. Being aggrieved, the applicant (landowner) got the matter referred before the Arbitrator-cum-Commissioner, Tirhut Division, who after hearing both the parties and considering the materials available on record, upheld the order of District Land Acquisition Officer (Opposite Party No.1). The contention of the applicant is that the land acquired by the opposite party are of commercial use and situated at Bhusra Chauk which is a well-developed commercial place. The acquired land had a pucca building consisting of two shops, one run by the petitioner, being the main source of his income and the other let out to a homeopathic doctor for his clinic. There are many shops in the market, including branch of a nationalized Bank, revealing commercial nature of the acquired land.

5. On the other hand, the learned Counsel for the opposite parties submit that where the landowner has raised a commercial building upon the land under acquisition without obtaining the “change in Land Use” from the competent authority, that is, the land was never converted into commercial, and the land usage was never changed in accordance with the provisions of the Bihar Agriculture Land (Conversion for Non-Agriculture Purposes) Act, 2010, such a person cannot take the benefit of treatment of such land as commercial.

In the present case, it is stated that since no document could be furnished by the applicant to show that the alleged land was commercial in nature and the party accepted the compensation on residential rate, they cannot be given compensation at commercial rate now.

The issue for determination before this Court:-

6. The issue for determination before this Court is whether the order of the Arbitrator dated 25.01.2023, passed in Arbitration Case no. 21 of 2022 is in accordance with the statutory provisions and tenable in the eye of law, or suffers from any material illegality or irregularity?
7. At this juncture, it is pertinent to briefly delve into the relevant provisions applicable herein.

Section 26 of land acquisition act of the Land Acquisition, Rehabilitation And Resettlement Act, 2013- “Determination of market value of land by Collector.” - (1) The Collector shall adopt the following criteria in assessing and determining the market value of the land, namely:— (a) the minimum land value, if any, specified in the Indian Stamp Act, 1899 for the registration of sale deeds or agreements to sell, as the case may be, in the area, where the land is situated; or (b) the average sale price for similar type of land situated in the nearest village or nearest vicinity area; or (c) consented amount of compensation as agreed upon under sub-section (2) of section 2 in case of acquisition of lands for private companies or for public private partnership projects, whichever is higher:

“Provided that the date for determination of market value shall be the date on which the notification has been issued under section 11.”

Similarly, Section 3G (7) (a) of National Highways Act, 1956 reads:- *“where any land is acquired under this Act, there shall be paid an amount which shall be determined by an order of the competent authority and the competent authority while determining the amount shall take into consideration- the market value of the land on the date of publication of the notification under Section 3A.*

8. In the facts of the present case, it is apparent from the award passed by the Arbitrator that though he has admitted the land to be “Commercial” in the notification, the compensation is paid at “Awasiya” rate because the land use Conversion fee has not been paid and no document is furnished in support of it. Now, as held by the Hon’ble Courts in a catena of cases, the question of conversion from residential to commercial, regarding the land in question is hyper-technical and non-payment of land use conversion fee by itself is not an absolute ground to deny compensation at commercial rate, if the land had genuine commercial potential or was actually being used commercially at that time of acquisition, as in the present case. It is presumed that when commercial activities are carried out on the alleged piece of land and also the neighbouring areas, the Government authorities must have granted

permission. By allowing these commercial activities on the land, the government authorities have by their very act granted recognition and acknowledgment of the land in- question as commercial in nature, as also reflected in the notification under Section 3-D of the NHAI Act 1956.

9. Now, coming to the power of the Court under Section 34 of the Act to make interference with the award, it has been held by the Hon'ble Apex Court that it is always a factual subject. **The Hon'ble Supreme Court in the case of Batliboli Environmental Engineers Ltd. Vs. Hindustan Petroleum Corporation Ltd. & Anr. [(2024) 2 SCC 375] held as follows:**

" 33. To entangle and balance the competing principle, the decree and scope of intervention courts when an award is challenged by one or both parties needs to be stated. Reconciliation as a statement of law and in particular application in a particular case has not been an easy exercise."

10. It is also settled principle that duty is cast upon both the Competent Authority and the Arbitrator, to arrive at a fair and just compensation, in order to compensate the land owner, for the reason that they have lost their livelihood. The value of the land rises manifold and the deprivation amounts to violation of the human right to hold property. The constitutional obligation rests upon both the Competent Authority and Arbitrator to determine the fair and just compensation to restore the life of the land holders as per the theory of restitution.

With respect to it, the Hon'ble Supreme Court in Oil & Natural Gas Corporation Ltd vs Saw Pipes Ltd reported in (2003) 5 SCC 705 held that it is a settled principle of law that the procedural law cannot fail to provide relief when substantive law gives the right.

11. So, in light of the above discussion and on the basis of the materials available on record, as well as the precedents laid down by the Hon'ble Apex Court in a Catena of cases, the application filed under Section 34 of the Arbitration and Conciliation Act, 1996 is allowed.

12. The Arbitral Award dated 25.01.2023, passed by the learned Arbitrator cum Commissioner, Tirhut Division in Arbitration Case No. 21 of 2022 is hereby set aside. The opposite party no.1 is directed to pay the balance amount of compensation, as per the commercial rate prevailing on the date on which the notification has been issued under Section 11 of the Act.

sd/-

{ Shweta Km.Singh}
Principal District Judge,
Muzaffarpur.
(Dated 25th May, 2026)