

W.P. No.5413/2016 & W.P. No.5414/2016

07.04.2016

Shri Vishal Dhagat, Advocate for the petitioners.

Shri K.N. Pethia, Advocate for the respondents.

Heard counsel for the parties.

As short question is involved, petitions are taken up for final disposal forthwith, by consent. Counsel for the respondents waives notice for final disposal.

By these writ petitions under Article 226 of the Constitution of India, the petitioners have essentially asked for setting aside of the order dated 22.12.2015 passed by the Commissioner and Arbitrator to the extent of remanding back the matter before the competent Authority for determination of amount/compensation.

The question raised in these petitions, in that sense, is purely a question of law. The facts are indisputable. It is not in dispute that the competent Authority decided the claim of the petitioners. Against which, the petitioners preferred remedy before the Commissioner and Arbitrator for determination of amount payable as compensation, under section 3G of the National Highways Act, 1956. Sub-Section (5) of Section 3G envisages that if the amount determined by the competent Authority is not acceptable to either of the parties, on an application made by the

aggrieved party the Arbitrator to be appointed by the Central Government must determined the same. There is no power bestowed on the Arbitrator to relegate the claimant before the competent Authority for re-determination of the amount/compensation. In absence of such power, the Arbitrator could not have directed remand on the issue of determination of amount/compensation to the competent Authority.

In other words, the order of remand is without jurisdiction. Hence, the same is set aside. As a result, Case No.225 years 2013-14, is restored to the file to its original number and the Commissioner and Arbitrator is directed to decide all aspects of the matter for determination of amount payable as compensation to the petitioners.

We make it clear that all questions in that behalf will have to be decided by the Arbitrator on its own merits, in accordance with law.

Disposed of accordingly.

(A.M. Khanwilkar)
Chief Justice

(Sanjay Yadav)
Judge