2026:AHC-LKO:19945

# HIGH COURT OF JUDICATURE AT ALLAHABAD
# LUCKNOW

## APPEAL UNDER SECTION 37 OF ARBITRATION AND CONCILIATION ACT 1996 No. - 12 of 2026

National Highway Division, Public Works Department Thru. Executive Engineer .....Appellant(s)

Versus

Jagdish Prasad Shukla And Others .....Respondent(s)

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| Counsel for Appellant(s) | : | Ankit Srivastava |
| Counsel for Respondent(s) | : | Omendra Pratap Singh, C.S.C. |

**Court No. - 17**

**HON'BLE SUBHASH VIDYARTHI, J.**

1. Heard Shri Ankit Srivastava, the learned counsel for the petitioner and Shri J.N. Mathur, learned Senior Advocate assisted by Shri Omendra Pratap Singh and Shri Anupras Singh, Advocates the learned counsel for the respondent.

2. The appellant- National Highway Division, Public Works Department has filed this appeal under Section 37 of the Arbitration and Conciliation Act, 1996 challenging the judgment and order dated 05.12.2025 passed by the District Judge, Shrawasti rejecting the petitioner's application under Section 34 of the Arbitration and Conciliation Act, 1996 against an award dated 19.03.2024 passed by the Collector/District Magistrate, Shrawasti in Case No.653 of 2023 under Section 3(G)(V) of the National Highways Act, 1956 (hereinafter referred to as Highways Act).

3. Briefly stated, facts of the case are that the appellant had issued a notification under Section 3-A of the Highways Act on 28.03.2023. Thereafter, a publication under Section 3(D) of the Highways Act was published on 04.07.2023. The lands bearing Gata Nos.1112 and 1113 situated at Village Tilakpur, Pargana- Bahraich, Tehsil- Ikauna, District- Shrawasti owned by the respondent No.3 were also acquired. On 03.11.2023, an order was published.

4. The respondent No.1 filed Arbitration Case No.653 of 2023 before the Collector/District Magistrate, Shrawasti under Section 3(G)(V) of the Highways Act stating that he has been awarded land acquisition

compensation treating his property to be agricultural property whereas declarations had been issued on 29.06.2013 and 10.06.2015 to the effect that his lands are non-agricultural lands. The District Magistrate had obtained a valuation report from Assistant Inspector General Registration, Shrawasti who submitted a report dated 13.03.2024 stating that the lands in question have been declared non-agricultural by means of orders dated 27.06.2013 and 10.06.2015 passed by the S.D.M. The District Magistrate accepted the claim of the respondent No.1 and awarded a sum of Rs.3,98,59,200/- treating the property to be as non-agricultural property. The land is lying uncultivated and is a commercial land for the past four years. Boundaries of the land mentioned in the report dated 13.03.2024 are as follows:-

*"North- N.H. 730*
*South- Saryu Neher*
*East- Shop TVS Suzuki*
*West- Shop and Coaching"*

5. The Assistant Inspector General Registration submitted a valuation report in accordance with the rules for ascertaining stamp duty payable for execution of sale deeds.

6. The District Magistrate allowed the application under Section 3(G)(V) of the Highways Act by means of an order dated 19.03.2024 and fixed the value of the property as per the report of Assistant Inspector General Registration.

7. The petitioner challenged the aforesaid order dated 19.03.2024 by filing an application under Section 34 of the Arbitration and Conciliation Act 1996 stating that the respondent No.1 himself had claimed compensation at the rate of Rs.8,900/- per sq. mtr. whereas the Arbitrator has awarded compensation at the rate of Rs.16,000/- per sq. mts. The petitioner further stated that although the land had been declared to be non-agricultural, the respondent No.1 has not commenced any commercial, residential or industrial activity on the land in dispute and, therefore, the declaration of the land being non-agricultural had lapsed as per the provisions contained in Section 80 of the U.P. Revenue Code, 2006 at the time of notification under Sections 3(A) and 3(D) of the Highways Act. This contention was not accepted by the District Judge.

8. Assailing validity of the order passed by the District Judge, Shri Ankit

Srivastava, the learned counsel for the appellant submitted that the second proviso appended to Sub-section (2) of Section 80 of the U.P. Revenue Code, 2006 provides that "*If the bhumidhar fails to start the proposed non-agricultural activity within a period of five years from the date of declaration under this Sub-section, then the declaration under Sub-section (2) for holding or part thereof shall lapse.*"

9. He has submitted that consequent to failure of the respondent No.1 to start any non-agricultural activity within a period of five years from the date of declaration under Section 80(2) of the U.P. Revenue code, the declaration has lapsed.

10. Replying to the aforesaid submission of the learned counsel for the appellant, Shri J.N. Mathur, the learned Senior Advocate, the learned counsel for the respondent No.1 has submitted that in the present case, the declaration of non-agricultural use was not made under the provisions of U.P. Revenue Code, 2006 but it was made under Section 143 of the Uttar Pradesh Zamindari Abolition and Land Reforms Act. U.P. Z.A. L.R. Act did not contain any provisions under which a declaration of non-agricultural use would lapse upon the land having not been put to a non-agricultural use. He has placed reliance upon a decision of Co-ordinate Bench of this Court in the case of **National Highways Authority of India v. Pankaj Singh & Ors.**; Arbitration Appeal No.01 of 2019 wherein this Court has held that :-

> *"Once a declaration has been issued by the competent authority under section the effect and consequence of the aforesaid declaration is also provided in the said Section 143, inasmuch as, it is excluded from the clutches of the U.P.Z.A. & L.R. Act in so far as the matters regarding succession is concerned and the land holder is exempted from payment of any revenue. That being so, on the date of notification under Section 3-A the declaration under Section 143 had been made. In the aforesaid backdrop the nature of the land which was for the non-agricultural purpose has rightly been put under the aforesaid category and compensation has been awarded in light thereto which is applicable to non-agricultural land. Had there been any improvement that would have been calculated separately, however, that is not the case in the matter at hand."*

11. In view of the foregoing discussion, I find no force in the submission of the learned counsel for the appellant that the notification issued under Section 143 of U.P. Z.A. L.R. Act would lapse under the second proviso

appended to Section 80(2) of the U.P. Revenue Code, 2006.

12. As the learned counsel for the appellant has failed to make out even a *prima facie* illegality in the impugned order, the appeal is **dismissed** at the admission stage.

**March 18, 2026**
-Amit K-

**(Subhash Vidyarthi,J.)**