

National Highway Authority Of India vs Tehal Singh on 30 July, 2021

Bench: Rohinton Fali Nariman, B.R. Gavai

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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

MISCELLANEOUS APPLICATION DIARY NO. 2572 OF 2020

IN

CIVIL APPEAL NO. 7086 OF 2019

NATIONAL HIGHWAY AUTHORITY OF
INDIA & ANR.

APP

VERSUS

TEHAL SINGH & ORS.

Res

O R D E R

Sh. Shyam Divan, learned senior counsel appearing on behalf of the applicant(s), seeks a clarification of our Judgment dated 19.09.2019 in two aspects. First, he points out that in Paragraph 41 of our Judgment, we have included Section 23(1A) as well, when Section 23(1A) was not present before any authority or the Court on the facts of these cases.

He has also shown us the Judgment and Order dated 28.03.2008 passed by the High Court of Punjab and Haryana in Civil Writ Petition No. 11461 of 2005 to buttress this submission.

Since this plea is correct, we delete the expression “(1A) and” occurring in Paragraph 41 (Page 76 of the paperbook) for the reason given above.

Second, Sh. Shyam Divan points to Paragraph 42 and the sentence reading, “The burden to prove that the land in question is within 50m of the National Highway, and that it does not have commercial potentiality, is on the NHAI but, on facts, has never been discharged.” According to him, the burden to prove that the land in question is within 50m of the National Highway, is correctly on the NHAI, but whether it does or does not have commercial potentiality, ought to be on the person whose land is acquired. We may indicate that it was only on the facts of those cases that it was held that the burden, in the facts of those cases, as to commercial potentiality, is placed on the NHAI. This is not a general statement of the law, as is clear from Paragraph 42.

With these two modifications, the misc. application is disposed of.

.....J. [ROHINTON FALI NARIMAN]J. [B. R. GAVAI] New Delhi;

JULY 30, 2021.

ITEM NO.31

Court 2 (Video Conferencing)

SECTION IV

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

MISCELLANEOUS APPLICATION DIARY NO. 2572 OF 2020 IN CIVIL APPEAL NO. 7086 OF 2019 NATIONAL HIGHWAY AUTHORITY OF INDIA & ANR. Petitioner(s) VERSUS TEHAL SINGH & ORS. Respondent(s) (IA No. 34072/2021 - INTERVENTION/IMPLEADMENT) (IA No. 12025/2020 - MODIFICATION OF COURT ORDER) Date : 30-07-2021 These matter was called on for hearing today. CORAM : HON'BLE MR. JUSTICE ROHINTON FALI NARIMAN HON'BLE MR. JUSTICE B.R. GAVAI For Petitioner(s) Mr. Shyam Divan, Sr. Adv.

Mr. Alok Sangwan, Adv.

Mr. Raghujeet Madan, Adv.

Mr. Sumit Kumar Sharma, Adv.

Mr. Anurag Kulharia, Adv.

Mr. Sandeep, Adv.

Mr. Krishan Yadav, Adv.

Mr. Devashish Bharuka, AOR For Respondent(s) Mr. Zulfiker Ali P. S, AOR Mr. Faisal M. Aboobacker, Adv. Mr. Augustine Peter, Adv.

Ms. Lakshmi Sree P., Adv.

Ms. Sadiya Shakeel, Adv.

Mr. Somiran Sharma, AOR UPON hearing the counsel the Court made the following O R D E R The Misc. Application is disposed of in terms of the signed order.

(JAYANT KUMAR ARORA)

(NISHA TRIPATHI)

COURT MASTER

BRANCH OFFICER

(Signed order is placed on the file)