

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.8472 of 2011**

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1. Smt. Nagina Devi W/O Shri Yogiraj Prasad R/O Village- Posua Patania, P.S- Riga, District- Sitamarhi.

.... .... Petitioner/s

Versus

1. The State Of Bihar
2. The Chief Secretary, Government Of Bihar, Patna.
3. The Collector, Sitamarhi.
4. The Additional Collector, Sitamarhi.
5. The Sub Divisional Officer, Sitamarhi.
6. The Executive Engineer, Public Works Department, Road Division, Sitamarhi.
7. The Assistant Engineer, Public Works Department, Road Division No.2, Sitamarhi.
8. The Junior Engineer, Public Works, Department, Road Division, Majorganj.

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. JAGNNATH SINGH

For the Respondent/s : Mr. SUBHASH PD. SINGH GA7

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**CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL**  
**ORAL JUDGMENT**

**Date: 30-10-2015**

Heard Mr. Jagannath Singh for the petitioner and Mr. Subhash Prasad Singh, G.A.-7 for the State.

A counter affidavit has been filed on behalf of the State respondents.

The writ petition has been filed for the following reliefs as culled out in paragraph-1:-

“1. That this is an application for issuance of a writ in the nature of Mandamus or any other appropriate Writ/Rule/Direction for commanding the respondent authorities is either to make the payments of the compensation against 5 Acres of Raiyati land of Village – Pokharbhinda, Thana no. 241, Thana-Sahiyara, Block-Bathnaha, District- Sitamarhi which has been acquired



and used as diversion of P.W.D. Road moving from Sitamarhi to Riga up to Majorganj since the year 1993 or to vacate the land of the petitioner by shifting diversion of P.W.D. Road to its original place and thereby to make the payment of the compensation for the period the personal land of the petitioner has been used as public road by making diversion as P.W.D. Road on account of the severe flood in the year 2003 with a suitable amount of cost and interest payable to the petitioner since 1993 when the personal land of the petitioner has been acquired by them as diversion of the P.W.D. Road moving from Sitamarhi via Riga to Majorganj.”

In the counter affidavit, the respondents have stated as under in paragraph 4(iv):-

“4(iv):-That the petitioner has never objected or never approached before the authorities concerned at the time of construction of said diversion road near and adjacent to the plot of the petitioner. However, the state authorities have constructed the diversion road near the aforesaid plot of the petitioner on the flank vacant side of the R.C.D. Road land. It is made clear that during the course of construction of the said diversion road near the plot of the petitioner, some part of the plot of the petitioner might have touched and over head the land of the petitioner. The petitioner neither objected the construction work nor taken any measurement of the diversion road at the time of construction of the said diversion road. Therefore, the claim of the petitioner is vague and on the basis of vague statement in the writ petition the claim of the petitioner is not maintainable, hence writ petition is fit to be dismissed.”

A dispute of such nature, in my view, would not be gone into by the Writ Court. If the petitioner makes an application for payment of rent or the compensation or removal of diversion from his land, as the case may be, the respondents will consider the same after getting

the diversion so constructed by them measured and pass appropriate order in accordance with law as quickly as possible preferably within six weeks from such filing of representation.

The writ application is disposed of.

**(Kishore Kumar Mandal, J)**

Pankaj/-

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