

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.32 of 2019

1. Bhagwan Sharma son of Late Mishri Sharma.
2. Sikandar Kumar son of Late Kamlakant Sharma.
3. Ajay Sharma, son of Late Kailashpati Sharma.
4. Manikant Sharma, son of Late Deokinandan Sharma.
5. Nandlal Sharma, son of Late Jagdish Sharma.
6. Nageshwar Sharma, son of Late Bhujangi Sharma.
7. Wakil Sharma, son of Late Kamal Sharma.
8. Baijnath Sharma, son of Late Rammal Sharma.
9. Kapildeo Sharma, son of Late Panchananad Sharma.
10. Muso Sharma, son of Late Dahu Sharma.
11. Jay Prakash Sharma, son of Late Bhoomi Sharma (Deceased). All are residents of Village Virvas, P.S. Pasraha, District Khagaria.
12. Jay Prakash Sharma, son of Late Tilakdhari Sharma resident of Paikant, P.S. Gogari, District Khagaria.
13. Bhuwaneshwar Sharma @ Sunil Sharma, son of Late Siyaram Sharma, resident of Asha Tola, P.S. Bihpur, District Bhagalpur.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Revenue Department, Government of Bihar, Patna
2. The Principal Secretary, Water Resources Department, Government of Bihar, Patna.
3. The Collector, District Khagaria.
4. The Additional Collector, Khagaria.
5. The District Land Acquisition Officer, Khagaria.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Shrinand Pd. Singh, Advocate Mr. Navesh Nandan, Advocate
For the Respondent/s	:	Mr. Md. Khurshid Alam -AAG-12 Mr. Majid M. Khan, AC to AAG 12

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

2 04-12-2019 Heard learned counsel appearing on behalf of the

petitioners and learned counsel appearing on behalf of the State.



It is true that State in exercise of powers of eminent domain can acquire any land but acquisition of land is only permissible on payment of compensation.

The respondents have acquired the land of the petitioners and after acquisition constructed Bandh over the land of the petitioners.

Grievance of the petitioner in the present writ petition is that land was acquired and construction was also made but without making payment of compensation to the petitioners.

It is true that right of property is no more fundamental right but Article 300A of the Constitution protects the right of individual as it is now a constitutional right and the State or its instrumentality cannot arbitrarily acquire land and use the same without payment of compensation.

In the counter affidavit stand has been taken that proper party has not been impleaded in this case and therefore, this Court should not issue any direction for payment of compensation.

This Court failed to understand this kind of plea taken on behalf of the respondent-State. A welfare State is not expected to raise such kind of plea to defeat the legitimate right of a citizen.



Accordingly, the writ petition is disposed of with direction to the concerned respondent, namely, the Collector, Khagaria to take immediate step for payment of compensation for the use of the land of the petitioners. Necessary action for payment of compensation for use of the land of the petitioners must be taken by the Collector, Khagaria within a period of three months failing which the compensation amount would carry interest at the rate of 9% per annum which shall be realized from the pocket of the concerned Officer for whose lapse there is denial of compensation for use of the land of the petitioner.

With the aforesaid, the writ petition stands disposed of.

(Anil Kumar Upadhyay, J)

spandey/-

U			
---	--	--	--

