

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4562 of 2022

1. Lalita Devi, Wife of Madhusudan Rai, Resident of Chota Nuan, P.S.- Pandeypatti (Muffasil), District- Buxar.
2. Ram Sajjan Kumar, Son of Late Sampat Sah, Resident of Savlak Sarai, P.S.- Kurtha, District- Arwal.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar at Patna.
2. Urban Development and Housing Department, Govt. of Bihar, Patna through the Principal Secretary, District- Patna.
3. Principal Secretary, Urban Development and Housing Department, Govt. of Bihar, Patna.
4. Commissioner, Patna Division, District- Patna.
5. District Magistrate-cum-Collector, Patna.
6. District Land Acquisition Officer, Patna, District- Patna.
7. Circle Officer, Sadar, District- Patna.
8. Patna Municipal Corporation through the Commissioner, District- Patna.
9. Commissioner, Patna Municipal Corporation, District- Patna.
10. Chief Managing Director, Patna Metro Rail Corporation Ltd., Indira Bhawan 7th Floor, Bailey Road, Patna- 800001.
11. Director (Work) Project Patna Metro Rail Corporation Ltd., Indira Bhawan, 7th Floor, Bailey Road, Patna- 800001.
12. Ministry of Jal Shakti, Department of Water Resources, River Development and Ganga Rejuvenation, through the Project Director, Bihar at Patna.
13. National Mission for Clean Ganga, Ministry of Jal Shakti, Department of Water Resources, River Development and Ganga Rejuvenation through Project Director, Vikash Bhawan Bailey Road, Patna, Bihar- 800001.
14. Bihar State Pollution Control Board, Patna, Bihar through its Principal Secretary, Bihar at Patna.
15. Principal Secretary, Bihar State Pollution Control Board, Bihar at Patna.
16. Archaeological Survey of India through Regional Director, Patna Circle, Puratattwa Bhawan, J.C. Road, Anta Ghat, Patna- 800001.
17. Regional Director, Patna Circle, Archaeological Survey of India, Patna.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 7579 of 2022

1. Ranjeet Kumar, son of Kedar Prasad, Resident of Nerut, P.S.- Saare,



District- Nalanda.

2. Anita Devi, wife of Mahadev Sao, Resident of H.B.G 708, Rajendra Nagar, Kankarbagh, near Rajendra Nagar Bridge, District- Patna.
3. Kanti Devi, wife of Ram Chandra Saw, Resident of Village Nawada, P.O.- Tilkai, P.S.- Makhdumpur Tilkai, District- Jehanabad.
4. Archana Kumari, wife of Anant Kumar, Resident of behind archeology, 975/B/2, Chankay Nagar Kumhrar, P.S.- Kumhrar District- Patna.
5. Sangita Kumari Sinha, wife of Chandra Bhushan Prasad, Resident of Karara, Ghoswari, P.S.- Karara, District- Patna.
6. Urmila Devi, daughter of Karu Mahto, Resident of Village Meyar, P.O.- Kaidi Meyar, Jamnapur, Sohsarai, P.S.- Noorsarai, District- Nalanda.
7. Anupriya Roy, wife of Pravin Kumar Prabhakar, Resident of SRT- 25 Rajendra Nagar P.S.- Bazar Samiti, District- Patna.
8. Preeti Kumari, wife of Yashlok Kumar, Resident of Village and P.O.- Chaturbhuj, Piprahai, P.S.- Laukaha, District- Madhubani.
9. Rubi Kumari, wife of Raj Verma, Resident of Village- Lalbigha, Warisaliganj, P.S.- Sahpur, District- Nawada.
10. Umesh Prasad, son of Vasudeo Mahto, Resident of RZ-A- 117, Jeewan Park, Pankha Road, DK Mohan Garden, West Delhi, Delhi.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, at Patna
2. Urban Development and Housing Department, Govt. of Bihar, Patna through the Principal Secretary, District- Patna.
3. Principal Secretary, Urban Development and Housing Department, Govt. of Bihar, Patna.
4. Commissioner, Patna Division, District- Patna.
5. District Magistrate-cum- Collector, Patna.
6. District Land Acquisition Officer, Patna, District- Patna.
7. Circle Officer, Sadar, District- Patna.
8. Patna Municipal Corporation through the Commissioner, District- Patna.
9. Commissioner, Patna Municipal Corporation, District- Patna.
10. Chief Managing Director, Patna Metro Rail Corporation Ltd, Indira Bhawan, 7th Floor, Bailey Road, Patna- 800001.
11. Director (Work) Project Patna Metro Rail Corporation Ltd, Indira Bhawan, 7th Floor, Bailey Road, Patna- 800001.
12. Ministry of Jal Shakti, Department of Water Resources, River Development and Ganga Rejuvenation, through the Project Director, Bihar, at Patna
13. National Mission for Clean Ganga, Ministry of Jal Shakti, Department of Water Resources, River Development and Ganga Rejuvenation, through Project Director, Vikash Bhawan Bailey Road, Patna, Bihar- 800001.



14. Bihar State Pollution Control Board, Patna, Bihar through its Principal Secretary, Bihar at Patna.
15. Principal Secretary, Bihar State Pollution Control Board, Bihar at Patna.
16. Archaeological Survey of India through Regional Director, Patna Circle, Puratattwa Bhawan, J.C. Road, Anta Ghat, Patna- 800001.
17. Regional Director, Patna Circle, Archaeological Survey of India, Patna.

... .. Respondent/s

with
Civil Writ Jurisdiction Case No. 7641 of 2022

1. Usha Devi, Wife of Motilal Sahani, Resident of Village- Jitwarpur, P.O.- Indar Wara, P.S.- Tajpur, District- Samastipur.
2. Deepak Kumar, Son of Jaichand Lal, Resident of Village- Govindpur, P.O. and P.S.- Govindpur, District- Nawada.
3. Sarita Prasad, Wife of Pawan Prakash, Resident of Village- Sakri Gali, Sampat Chak, P.S.- Aalamganj, District- Patna.
4. Raj Kumar, Son of Madan Mohan Shaw, Current Resident of Qtr. No.- 100/2, Air Force Station, Dadri, P.S.- Gautam Bugh Nagar, District- Uttar Pradesh.
5. Shyam Deo Prasad, Son of Seryug Prasad, Resident of Village- Tetarhaat, P.S.- Tetarhaat, District- Lakhisarai.
6. Vidya Sagar, Son of Jagdish Prasad, Resident of Village- Aijhi, P.O. and P.S.- Sheikhpura, District- Sheikhpura.
7. Rameshwar Prasad, Son of Late Nanhu Saw, Resident of Village- Sampat Chak, P.S.- Gopalpur, District- Patna.
8. Ravi Kumar, son of Manoj Kumar Resident of 41 Jai Prakash Nagar, Vidhan Parishad Colony, Sampatchak, P.S.- Agamkuan, District- Patna.
9. Pravila Kumari, Wife of Ayodhya Prasad Azad, Resident of Village- Saiyad Salem B. Factory, Rusulpur, P.O.- Bhikhanpur, P.S.- Rasulpur, District- Muzaffarpur.
10. Nirupa Kumari, Wife of Anil Singh, Resident of Balipur, P.O.- Bhagwanpur, P.S.- Hulsaganj, District- Jehanabad.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Chief Secretary, Government of Bihar, at Patna.
2. Urban Development and Housing Department Govt. of Bihar, Patna through the Principal Secretary, District- Patna.
3. Principal Secretary Urban Development and Housing Department, Govt. of Bihar, Patna.
4. Commissioner Patna Division, District- Patna.



5. District Magistrate-cum- Collector Patna.
6. District Land Acquisition Officer Patna, District- Patna.
7. Circle Officer Sadar, District- Patna.
8. Patna Municipal Corporation through the Commissioner District- Patna.
9. Commissioner Patna Municipal Corporation, District- Patna.
10. Chief Managing Director Patna Metro Rail Corporation Ltd., Indira Bhawan 7th Floor, Bailey Road, Patna- 800001.
11. Director (Work) Project Patna Metro Rail Corporation Ltd. Indira Bhawan 7th Floor, Bailey Road, Patna- 800001.
12. Ministry of Jal Shakti Department of Water Resources, River Development and Ganga Rejuvenation, through the Project Director, Bihar, at Patna.
13. National Mission for Clean Ganga Ministry of Jal Shakti, Department of Water Resources, River Development and Ganga Rejuvenation, through the Project Director, Vikash Bhawan Bailey Road, Patna, Bihar - 800001.
14. Bihar State Pollution Control Board Patna, Bihar through its Principal Secretary, Bihar at Patna.
15. Principal Secretary Bihar State Pollution Control Board, Bihar at Patna.
16. Archaeological Survey of India through Regional Director Patna Circle, Puratattwa Bhawan, J.C. Road, Anta Ghat, Patna- 800001.
17. Regional Director Patna Circle, Archaeological Survey of India, Patna.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 7650 of 2022

1. Rajnish Kumar, S/o Sri Baleshwar Prasad, resident of Mohalla-Ward No. 56 of Patna Municipal, P.S.-Agamkuan, Distt.-Patna.
2. Ranjana Sinha, W/o Sri Arun Prasad,
3. Mahendra Prasad, S/o Late Chamaru Prasad,
4. Manoj Kumar, S/o Sri Dinanath Prasad,
5. Archna Kumari, W/o Navenet Kumar,
6. Gajendra Kumar Singh, S/o Late Bhuneshwar Singh,
7. Munni Devi, W/o Sri Anuj Kumar,
8. Lalita Kumari, W/o Sri Rakesh Kumar,
9. Shakeela Devi, W/o Sri Krishnadev Rai,
10. Sunita Devi, W/o Sri Shivji Sao,
11. Sarita Kumari, W/o Sri Ramesh Kumar,
12. Saroj Devi, W/o Sri Upendra Prasad,
13. Rekha Kumari, W/o Sri Abhimanyu Kr. Roy,
14. Sarla Sinha, W/o Sri Mukesh Singh,



15. Anil Kumar, S/o Sri Parmanand,
16. Manjula Kumari, W/o Sri Jagat Kishore Kumar,
17. Usha Mishra, W/o Sri Ashok Kumar Mishra,
18. Ramawati Devi, W/o Sri Subash Kumar Roy,
19. Shankar Mandal, s/o Sri Sukhdeo Mandal,
20. Ravi Shankar Sharma, s/o Late Yamuna Singh,

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Principal Secretary, Deptt of Revenue and Land Reform, Govt. of Bihar, Patna.
3. The Principal Secretary, Deptt of Urban and Housing, Govt. of Bihar, Patna.
4. The Director, Directorate of Land Acquisition, Deptt of Revenue, Govt. of Bihar, Patna.
5. The District Magistrate cum Collector, Patna.
6. The Additional Collector, Patna.
7. The District Land Acquisition Officer, Patna.
8. The Circle Officer, Circle Patna, Patna.
9. The Managing Director, Patna Metro Rail Corporation Limited, its Head Office at Indira Bhawan, West Boring Canal Road, Srikrishnapuri, Patna, Bihar-800001.
10. The Director, Patna Metro Rail Corporation Limited, its Head Office at Indira Bhawan, West Boring Canal Road, Srikrishnapuri, Patna, Bihar-800001.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 7726 of 2022

1. Meena Devi, wife of Kanhaiya Lal, resident of Quamruddinganj, District- Nalanda. (803101)
2. Mamta Kumari, wife of Raj Kumar, resident of near Post Office, Tajnipur, Barh, District Nalanda (803213)
3. Saurabh Sharan, son of Siyamohani Sharan, Daniyawan, Pandapur, District Nalanda (801301)
4. Sunita Kumari, wife of Mithlesh Kumar, resident of A/493, A.G. Colony, Phulwari, District- Patna (800025).
5. Renu Kumari, wife of Kamlesh Kumar, resident of Village- Mohanchak, P.S.- Bikram, Akhtiyarpur, District- Patna
6. Kamlesh Kumar, son of Kameshwar Prasad, resident of Village- Mohanchak, P.S.- Bikram, Akhtiyarpur, District- Patna



7. Namrata Kumari, wife of Raj Kumar, resident of Village- Mehmampur, P.O.- Ramghat, P.S.- Nagarnausa, District- Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, at Patna
2. Urban Development and Housing Department, Govt. of Bihar, Patna through the Principal Secretary, District- Patna.
3. Principal Secretary, Urban Development and Housing Department, Govt. of Bihar, Patna.
4. Commissioner, Patna Division, District- Patna.
5. District Magistrate-cum- Collector, Patna.
6. District Land Acquisition Officer, Patna, District- Patna.
7. Circle Officer, Sadar, District- Patna.
8. Patna Municipal Corporation through the Commissioner, District- Patna.
9. Commissioner, Patna Municipal Corporation, District- Patna.
10. Chief Managing Director, Patna Metro Rail Corporation Ltd, Indira Bhawan, 7th Floor, Bailey Road, Patna- 800001.
11. Director (Work) Project Patna Metro Rail Corporation Ltd, Indira Bhawan, 7th Floor, Bailey Road, Patna- 800001.
12. Ministry of Jal Shakti, Department of Water Resources, River Development and Ganga Rejuvenation, through the Project Director, Bihar, at Patna
13. National Mission for Clean Ganga, Ministry of Jal Shakti, Department of Water Resources, River Development and Ganga Rejuvenation, through the Project Director, Vikash Bhawan Bailey Road, Patna, Bihar- 800001.
14. Bihar State Pollution Control Board, Patna, Bihar through its Principal Secretary, Bihar at Patna.
15. Principal Secretary, Bihar State Pollution Control Board, Bihar at Patna.
16. Archaeological Survey of India through Regional Director, Patna Circle, Puratattwa Bhawan, J.C. Road, Anta Ghat, Patna- 800001.
17. Regional Director, Patna Circle, Archaeological Survey of India, Patna.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 8427 of 2022

1. Raj Laxmi Bhushan, Wife of Shashi Bhushan Prasad, resident of Bhagwat Nagar, Patel Seva Nagar, Road No.-4 Kumhrar, B.H. Colony, Patna (800026).
2. Ruby Kumari, Wife of Arbind Kumar, resident of Patel Seva Nagar, Near N.R.L. Petrol Pump, Bahadurpur Housing Colony, Bhagwat Nagar, Kumhrar, Sampatchak, District Patna (800026).



3. Suchita Kumari, wife of Manish Kumar, Resident of Village-Road No. 5, East Indira Nagar, P.O.-Lohiyanagar, P.S.-Kankarbagh, District-Patna.
4. Shakuntala Kumari, Wife of Arjun Prasad, Resident of House NO. -74, Village-Teka Bigha, P.O.-Amuraura, P.S.-Chandi, District-Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, at Patna.
2. Urban Development and Housing Department, Govt. of Bihar, Patna through the Principal Secretary, District-Patna.
3. Principal Secretary, Urban Development and Housing Department, Govt. of Bihar, Patna.
4. Commissioner, Patna Division, District-Patna.
5. District Magistrate-cum-Collector, Patna.
6. District Land Acquisition Officer, Patna, District-Patna.
7. Circle Officer, Sadar, District-Patna.
8. Patna Municipal Corporation through the Commissioner, District-Patna.
9. Commissioner, Patna Municipal Corporation, District-Patna.
10. Chief Managing Director, Patna Metro Rail Corporation Ltd., Indira Bhawan 7th Floor, Bailey Road, Patna-800001.
11. Director (Work) Project Patna Metro Rail Corporation Ltd., Indira Bhawan 7th Floor, Bailey Road, Patna-800001.
12. Ministry of Jal Shakti, Department of Water Resources, River Development and Ganga Rejuvenation, through the Project Director, Bihar at Patna.
13. National Mission for Clean Ganga, Ministry of Jal Shakti, Department of Water Resources, River Development and Ganga Rejuvenation, through Project Director, Vikash Bhawan, Bailey Road, Patna, Bihar-800001.
14. Bihar State Pollution Control Board, Patna, Bihar through its Principal Secretary, Bihar at Patna.
15. Principal Secretary, Bihar State Pollution Control Board, Bihar at Patna.
16. Archaeological Survey of India through Regional Director, Patna Circle, Puratattwa Bhawan, J.C. Road, Anta Ghat, Patna-800001.
17. Regional Director, Patna Circle, Archaeological Survey of India, Patna.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 8577 of 2022

1. Sunil Kumar Amar, Son of Suresh Prasad, Resident of Mina Bazar, Shahu Colony, Gulzarbagh, P.S.-Alamganj, District-Patna.
2. Sujata Gupta, Wife of Sunil Kumar Amar, Resident of Mina Bazar, Shahu Colony, Gulzarbagh, P.S.-Alamganj, District-Patna.



3. Rinku Devi, Daughter of Ashok Kumar, Resident of B 502, Bali Road, P.S.-Phulwari, District-Patna.
4. Ranjan Sinha, Wife of Surendra Sekhar, Resident of Village Maula Nagar, Sahora P.O.-Maulanagar, P.S.-Atari, District-Gaya.
5. Sonmari Devi, Wife of Jamuna Prasad, Resident of Village-Asarhi, P.O.-Asarhi, P.S.-Hilsa, District-Nalanda.
6. Rani Devi, Wife of Ashutosh Kumar, Resident of Ward No.-12 Pipal Tola, Katauna, P.S. -Giriak, District-Nalanda.
7. Chinta Devi, Wife of Shyamnandan Prasad, Resident of Ward No.-16, Bansbigaha, P.O.-Bansbigaha, P.S.-Chhati, District-Patna.
8. Mahendra Bhushan, Son of Sunil Bhushan, Resident of Indian Machinery Campur, Naya Tola Kumhara, P.O.-Bahadurpur Housing Colony, P.S.-Agamkuan, District-Patna.
9. Sonu Sharma, Son of Raghunath Sharma, Resident of Lodi Katraharna Tola, P.S.-Nagla, Patna City, District-Patna.
10. Munni Devi, Wife of Upendra Thakur, Resident of Village-Ajhi Mehus Road, Bypass, P.O.-Mubarakpur, P.S.-Korma, District-Sheikhpura.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, at Patna.
2. Urban Development and Housing Department, Govt. of Bihar, Patna through the Principal Secretary, District-Patna.
3. Principal Secretary, Urban Development and Housing Department, Govt. of Bihar, Patna.
4. Commissioner, Patna Division, District-Patna.
5. District Magistrate-Cum-Collector, Patna.
6. District Land Acquisition Officer, Patna, District-Patna.
7. Circle Officer, Sadar, District-Patna.
8. Patna Municipal Corporation through the Commissioner, District-Patna.
9. Commissioner, Patna Municipal Corporation, District-Patna.
10. Chief Managing Director, Patna Metro Rail Corporation Ltd, Indira Bhawan 7th Floor, Bailey Road, Patna-800001.
11. Director (Works) Project Patna Metro Rail Corporation Ltd, Indira Bhawan 7th Floor, Bailey Road, Patna-800001.
12. Ministry of Jal Shakti, Department of Water Resources, River Development and Ganga Rejuvenation, through the Project Director, Bihar, at Patna.
13. National Mission for Clean Ganga, Ministry of Jal Shakti, Department of Water Resources, River Development and Ganga Rejuvenation, through the Project Director, Vikash Bhawan Bailey Road, Patna, Bihar-800001.
14. Bihar State Pollution Control Board, Patna, Bihar through its Principal Secretary, Bihar at Patna.



15. Principal Secretary, Bihar State Pollution Control Board, Bihar at Patna.
16. Archaeological Survey of India through Regional Director, Patna Circle, Puratattwa Bhawan, J.C. Road, Anta Ghat, Patna-800001.
17. Regional Director, Patna Circle, Archaeological Survey of India, Patna.

... .. Respondent/s

Appearance :

(In Civil Writ Jurisdiction Case No. **4562 of 2022**)

For the Petitioner/s	:	Mr.Sumeet Kumar Singh
	:	Mr. Kumar Avinash
	:	Ms. Alka Singh
	:	Mr. Nikhil Singh
For the Respondent/s	:	Mr.P.K. Shahi, A.G.
	:	Mr. Kinkar Kumar, SC 9
	:	Mr. Yogesh Kumar, AC to SC 9
	:	Mr. Rishi Raj Sinha, SC 19
For PMRCL	:	Mr. Lalit Kishore, Sr. Advocate
	:	Mr. Manish Dhari Singh, Advocate
For U.O.I.	:	Mr. Kumar Priya Ranjan, Advocate
	:	Ms. Nirmala Singh
	:	Mr. Girish Nandan Abhishek
	:	Mr. Vibhuti Kumar
For P.M.C.	:	Mr. Prasoon Sinha

(In Civil Writ Jurisdiction Case No. **7579 of 2022**)

For the Petitioner/s	:	Mr.Sumeet Kumar Singh
	:	Mr.Nikhil Singh
For the Respondent/s	:	Mr.Yogendra Prasad Sinha (Aag 7)
For PMRCL	:	Mr. Lalit Kishore, Sr. Advocate
	:	Mr. Manish Dhari Singh, Advocate
For U.O.I.	:	Mr. Kumar Priya Ranjan, Advocate

(In Civil Writ Jurisdiction Case No. **7641 of 2022**)

For the Petitioner/s	:	Mr.Sumeet Kumar Singh
For the Respondent/s	:	Mr.P.K. Shahi, A.G.
	:	Mr. Kinkar Kumar, SC 9
	:	Mr. Yogesh Kumar, AC to SC 9
For PMRCL	:	Mr. Lalit Kishore, Sr. Advocate
	:	Mr. Manish Dhari Singh, Advocate
For U.O.I.	:	Mr. Kumar Priya Ranjan, Advocate

(In Civil Writ Jurisdiction Case No. **7650 of 2022**)

For the Petitioner/s	:	Mr. Basant Kumar Choudhary, Sr. Adv.
	:	Mr.Anirudh Kumar Verma
For the Respondent/s	:	Mr.Manoj Kr. Sinha, AC to SC 19
For PMRCL	:	Mr. Lalit Kishore, Sr. Advocate
	:	Mr. Manish Dhari Singh, Advocate
For U.O.I.	:	Mr. Kumar Priya Ranjan, Advocate

(In Civil Writ Jurisdiction Case No. **7726 of 2022**)

For the Petitioner/s	:	Mr.Sumeet Kumar Singh
For the Respondent/s	:	Mr.P.K. Shahi, A.G.
	:	Mr. Kinkar Kumar, SC 9
	:	Mr. Yogesh Kumar, AC to SC 9
For PMRCL	:	Mr. Lalit Kishore, Sr. Advocate
	:	Mr. Manish Dhari Singh, Advocate
For U.O.I.	:	Mr. Kumar Priya Ranjan, Advocate

(In Civil Writ Jurisdiction Case No. **8427 of 2022**)



For the Petitioner/s	:	Mr.Sumeet Kumar Singh
For the Respondent/s	:	Mr.Yogendra Prasad Sinha (AAG 7)
For PMRCL	:	Mr. Lalit Kishore, Sr. Advocate
	:	Mr. Manish Dhari Singh, Advocate
For U.O.I.	:	Mr. Kumar Priya Ranjan, Advocate
(In Civil Writ Jurisdiction Case No. 8577 of 2022)		
For the Petitioner/s	:	Mr.Sumeet Kumar Singh
	:	Mr.Nikhil Singh
For the Respondent/s	:	Mr.Yogendra Pd. Sinha (AAG 7)
For PMRCL	:	Mr. Lalit Kishore, Sr. Advocate
	:	Mr. Manish Dhari Singh, Advocate
For U.O.I.	:	Mr. Kumar Priya Ranjan, Advocate

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA

JUDGMENT AND ORDER

C.A.V.

Date : 21-12-2023

The petitioners, in this batch of writ applications, are land as well as the house owners, whose properties have been acquired for the construction of Patna Metro Rail Depot, having a total area of 75.96 acres of land, in two mauza, i.e. Pahari and Ranipur.

PRAYER OF THE WRIT PETITIONERS

2. The relevant prayers and facts are being taken from CWJC No. 4562 of 2022 for the sake of brevity.

3. The petitioners have approached this Court for quashing of the land acquisition notice (Annexure P/26), issued under Section 11 (1) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (herein after referred to as the '2013 Act') with regard to 15.95 acres of land, situated in mauza Pahari and



23.35 acres of land, situated in mauza Ranipur, having a total area of 75.96 acres.

4. Further prayer of the petitioners is for setting aside the Social Impact Assessment Report (Annexure P/16), prepared by the Development Management Institute, Patna.

5. The petitioners have also prayed for quashing of the formation of Technical Expert Committee, constituted under Section 7 of the 2013 Act (Annexure P/17) as well as quashing of the report of the Technical Expert Committee, dated 30.06.2021, as contained in Annexure P/18.

6. By way of I. A. No. 01 of 2022, the petitioners have prayed for quashing the order dated 02.02.2022 passed by the District Land Acquisition Officer, Patna, by which objections filed by the petitioners have been rejected (Annexure P/30), for quashing the paper publication, under Section 19 of the 2013 Act, as contained in Annexure P/31).

7. By way of I. A. No. 06 of 2023, the petitioners have prayed for quashing the award, dated 04.08.2023, prepared in L. A. Case No. 29/2021-2022, under Sections 23 and 30 of the 2013 Act, as contained in Annexure P/52.

DESCRIPTION OF THE LAND/HOUSE OF THE WRIT PETITIONERS



8. The details of the lands/houses belonging to the individual writ petitioners under acquisition are stated herein below:

(i) The land of petitioner no. 1, Lalita Devi, of CWJC No. 4562 of 2022, situated at mauza Pahari, Police Station Alamganj, bearing Touzi No. 228, Thana No. 14, Khata No. 309, Plot No. 1225, having an area of 02 kathas.

(ii) The land and house of petitioner no. 2, Ram Sajjan Kumar, of CWJC No. 4562 of 2022, situated at mauza Pahari, Police Station Alamganj, bearing Touzi No. 22/15870, Thana No. 14, Khata No. 454, Plot No. 1656, having an area of 10 dhurs (1.5625 decimals).

(iii) The land of petitioner No. 1, Ranjeet Kumar, of CWJC No. 7579 of 2022, situated at mauza Pahari, Police Station Alamganj, bearing Touzi No. 228, Thana No. 14, Khata No. 337, Plot No. 1649, having an area of 2400 sq. feet.

(iv) The land of petitioner No.2, Anita devi, of CWJC No. 7579 of 2022, situated at mauza Pahari, Police Station Alamganj, bearing Touzi No. 229/15870, Thana No. 14, Khata No. 454, Plot No. 1656, having an area of 1.3133 decimals.

(v) The land of petitioner No. 3, Kanti Devi, of CWJC No. 7579 of 2022, situated at mauza Pahari, Police Station



Alamganj, bearing Touzi No. 229/15870, Thana No. 14, Khata No. 454, Plot No. 1656, having an area of 2.3437 decimals.

(vi) The land of petitioner No. 4, Archana Kumari, of CWJC No. 7579 of 2022, situated at mauza Pahari, Police Station Alamganj, bearing Touzi No. 227/1, Thana No. 14, Khata No. 126, Plot No. 1307, having an area of 1.3125 decimals.

(vii) The land of petitioner No. 5, Sangita Kumari, of CWJC No. 7579 of 2022, situated at mauza Pahari, Police Station Alamganj, bearing Touzi No. 227/1, Thana No. 14, Khata No. 126, Plot No. 1304, having an area of 3.125 decimals.

(viii) The land of petitioner No. 6, Urmila Devi, of CWJC No. 7579 of 2022, situated at mauza Pahari, Police Station Alamganj, bearing Khata No. 278, Plot No. 1671, having an area of 3.501 decimals.

(ix) The land of petitioner No. 7, Anupriya Roy, of CWJC No. 7579 of 2022, situated at mauza Pahari, Police Station Alamganj, bearing Khata No. 454, Plot No. 1656, having an area of 1620 sq. feet.

(x) The land of petitioner No. 8, Preeti Kumari, of CWJC No. 7579 of 2022, situated at mauza Pahari, Police Station Alamganj, bearing Touzi No. 229/15870, Thana No. 14, Khata No. 454, Plot No. 1656, having an area of 15 dhurs.



(xi) The land of petitioner No. 9, Rubi Kumari, of CWJC No. 7579 of 2022, situated at mauza Pahari, Police Station Alamganj, bearing Touzi No. 229/15870, Thana No. 14, Khata No. 454, Plot No. 1656, having an area of 15 dhurs.

(xii) The land of petitioner No. 10, Umesh Prasad, of CWJC No. 7579 of 2022, situated at mauza Pahari, Police Station Alamganj, bearing Khata No. 278, Plot No. 1671, having an area of 3000 sq. feet.

(xiii) The land of petitioner No. 1, Usha Devi, of CWJC No. 7641 of 2022, situated at mauza Pahari, Police Station Alamganj, bearing Touzi No. 228, Khata No. 309, Plot No. 1225, having an area of 1500 sq. feet.

(xiv) The land and house of petitioner No. 2, Deepak Kumar, of CWJC No. 7641 of 2022, situated at mauza Pahari, Police Station Alamganj, bearing Touzi No. 228, Khata No. 309, Plot No. 1225, having an area of 1200 sq. feet.

(xv) The land of petitioner No. 3, Sarita Prasad, of CWJC No. 7641 of 2022, situated at mauza Pahari, Police Station Alamganj, bearing Touzi No. 228, Khata No. 309, Plot No. 1225, having an area of 1200 sq. feet.

(xvi) The land of petitioner No. 4, Raj Kumar, of CWJC No. 7641 of 2022, situated at mauza Pahari, Police Station



Alamganj, bearing Touzi No. 228, Khata No. 309, Plot No. 1225, having an area of 1200 sq. feet.

(xvii) The land of petitioner No. 5, Shyam Deo Prasad, of CWJC No. 7641 of 2022, situated at mauza Pahari, Police Station Alamganj, bearing Touzi No. 228, Khata No. 309, Plot No. 1225, having an area of 1200 sq. feet.

(xviii) The land of petitioner No. 6, Usha Devi, of Vidya Sagar, CWJC No. 7641 of 2022, situated at mauza Ranipur, Police Station Bypass, bearing Touzi No. 15/3, Khata Nos. 437 and 485, Plot Nos. 4622 and 4623, having an area of 2400 sq. feet.

(xix) The land of petitioner No. 7, Rameshsar Prasad, of CWJC No. 7641 of 2022, situated at mauza Pahari, Police Station Alamganj, bearing Touzi No. 229, Khata No. 359, Plot No. 1655, having an area of 2268.61 sq. feet.

(xx) The land of petitioner No. 8, Ravi Kumar, of CWJC No. 7641 of 2022, situated at mauza Pahari, Police Station Alamganj, bearing Touzi No. 15870, Khata No. 347, Plot No. 1639, having an area of 2.583 decimals.

(xxi) The land of petitioner No. 9, Pravila Kumari, of CWJC No. 7641 of 2022, situated at mauza Pahari, Police Station Alamganj, bearing Touzi No. 229/15870, Khata No. 444, Plot No. 1644, having an area of 1375 sq. feet.



(xxii) The land of petitioner No. 10, Nirupa Kumari, of CWJC No. 7641 of 2022, situated at mauza Pahari, Police Station Alamganj, bearing Touzi No. 229/15870, Khata No. 444, Plot No. 1644, having an area of 1375 sq. feet.

(xxiii) The land of petitioner No. 1, Meena Devi, of CWJC No. 7726 of 2022, situated at mauza Pahari, Police Station Agamkuan, bearing Khata No. 298, Plot No. 1652, having an area of 1200 sq. feet.

(xxiv) The land of petitioner No. 2, Mamta Kumari, of CWJC No. 7726 of 2022, situated at mauza Pahari, Police Station Agamkuan, bearing Khata No. 70, Plot No. 1309, having an area of 1100 sq. feet.

(xxv) The land of petitioner No. 3, Saurabh Sharan, of CWJC No. 7726 of 2022, situated at mauza Pahari, Police Station Agamkuan, bearing Khata No. 78, Plot No. 1307, having an area of 3850 sq. feet.

(xxvi) The land of petitioner No. 4, Sunita Kumari, of CWJC No. 7726 of 2022, situated at mauza Pahari, Police Station Agamkuan, bearing Khata Nos. 38, 377 and 400, Plot Nos. 1805, 1681 and 1683, having an area of 2400 sq. feet.

(xxvii) The land of petitioner Nos. 5 and 6, namely, Renu Kumari and Kamlesh Kumar, of CWJC No. 7726 of 2022,



situated at mauza Pahari, Police Station Agamkuan, bearing Khata No. 201, Plot No. 1303, having an area of 1200 sq. feet.

(xxviii) The land of petitioner No. 7, Namrata Kumari, of CWJC No. 7726 of 2022, situated at mauza Pahari, Police Station Agamkuan, bearing Khata Nos. 278 and 442, Plot Nos. 1671 and 1673, having an area of 35.9968 decimals.

(xxix) The land of petitioner No. 1, Raj Laxmi Bhushan, of CWJC No. 8427 of 2022, situated at mauza Pahari, Police Station Agamkuan, bearing Khata Nos. 38, 377 and 400 Plot Nos. 1805, 1681 and 1683, having an area of 2400 sq. feet.

(xxx) The land of petitioner No. 2, Ruby Kumari, of CWJC No. 8427 of 2022, situated at mauza Pahari, Police Station Agamkuan, bearing Khata Nos. 38, 377 and 400, Plot Nos. 1805, 1681 and 1683, having an area of 1250 sq. feet.

(xxxii) The land of petitioner No. 3, Suchita Kumari, of CWJC No. 8427 of 2022, situated at mauza Pahari, Police Station Agamkuan, bearing Khata No. 444, Plot No. 1674, having an area of 1940 sq. feet.

(xxxiii) The land of petitioner No. 4, Shakuntala Kumari, of CWJC No. 8427 of 2022, situated at mauza Pahari, Police Station Agamkuan, bearing Khata Nos. 38, 377 and 400, Plot Nos. 1805, 1681 and 1683, having an area of 2310 sq. feet.



(xxxiii) The land of petitioner No. 1, Sunil Kumar Amar, of CWJC No. 8577 of 2022, situated at mauza Pahari, Police Station Agamkuan, bearing Khata No. 78, Plot No. 1313, having an area of 01 katha.

(xxxiv) The land of petitioner No. 2, Sujata Gupta, of CWJC No. 8577 of 2022, situated at mauza Pahari, Police Station Agamkuan, bearing Khata No. 78, Plot No. 1307 and 1313, having an area of 03 kathas.

(xxxv) The land of petitioner No. 3, Rinku Devi, of CWJC No. 8577 of 2022, situated at mauza Pahari, Police Station Agamkuan, bearing Khata No. 78, Plot No. 1307/1313, having an area of 02 kathas.

(xxxvi) The land of petitioner No. 4, Ranjana Sinha, of CWJC No. 8577 of 2022, situated at mauza Pahari, Police Station Agamkuan, bearing Khata No. 384, Plot No. 1648, having an area of 2360 sq. feet.

(xxxvii) The land of petitioner No. 5, Sonmari Devi, of CWJC No. 8577 of 2022, situated at mauza Pahari, Police Station Agamkuan, bearing Khata No. 384, Plot No. 1648, having an area of 1600 sq. feet.

(xxxviii) The land of petitioner No. 6, Rani Devi, of CWJC No. 8577 of 2022, situated at mauza Pahari, Police Station



Agamkuan, bearing Khata No. 444, Plot No. 1674, having an area of 4.8218 decimals.

(xxxix) The land of petitioner No. 7, Chinta Devi, of CWJC No. 8577 of 2022, situated at mauza Pahari, Police Station Agamkuan, bearing Khata No. 70, Plot No. 1309, having an area of 1200 sq. feet.

(XL) The land of petitioner No. 8, Mahendra Bhushan, of CWJC No. 8577 of 2022, situated at mauza Pahari, Police Station Agamkuan, bearing Khata No. 442, Plot No. 1673 and 1672, having an area of 1349 sq. feet.

(xli) The land of petitioner No. 9, Sonu Sharma, of CWJC No. 8577 of 2022, situated at mauza Pahari, Police Station Agamkuan, bearing Khata No. 442, Plot No. 1672 and 1673, having an area of 1065 sq. feet.

(xlii) The land of petitioner No. 10, Munni Devi, of CWJC No. 8577 of 2022, situated at mauza Pahari, Police Station Agamkuan, bearing Khata No. 444, Plot No. 1644, having an area of 1375 sq. feet.

9. In CWJC No. 7650 of 2022, the details of the land and houses of the petitioners has not been mentioned in the pleadings.

BACKGROUND OF THE CASE



10. The relevant fact, involved in these writ applications, is that earlier two depots were to be constructed in mauza Aitwarpur and mauza Ramchak Bairiya, but subsequently it was decided to construct only one depot, at mauza Pahari and Ranipur. The Cabinet of the State of Bihar approved the Patna Metro Rail Project on 09.10.2018. Earlier, the M/s Rail India Technical and Economic Service (RITES) had given the proposal for two depots.

11. In the year 2019, i.e on 03.09.2019, the work of construction of Metro Rail and Depot in Patna has been given by Patna Metro Rail Corporation Limited (in short, 'PMRCL') to Delhi Metro Rail Corporation (in short, 'DMRC') and the same was approved by State of Bihar. The agreement between PMRCL and DMRC was entered on 25.09.2019.

12. The DMRC has made changes in the line alignment of the Patna Metro on 08.02.2020 and also changed the location of metro depot from two locations to one locations, i.e. mauza Pahari and Ranipur, which are under acquisition. The lands have been acquired under the general provisions of the 2013 Act.

13. The Urban Development and Housing Department, Government of Bihar, issued an Office Order on 17.03.2020, in which reasons for relocation of the Metro depot from two depots



to one depot, has been mentioned that there shall be large number of demolition of houses at previous location, drainage system, seamless integration of I.S.B.T. and the Metro depot, and further 11.6 Hectares for the purpose of Property Development Area. The revised detailed project report has been approved by the State Government and the Central Government.

14. The objection hearing on Social Impact Assessment Report was held on 04.06.2021 and the report of the Social Impact Assessment was prepared and published on 14.06.2021 and subsequently, Expert Committee was constituted on 23.06.2021 and this Committee submitted its report on 30.06.2021.

15. After submission of the report by the Expert Committee, notification, under Section 11 of 2013 Act, was issued on 23.10.2021. On 23.12.2021, objections were filed by the land owners. The objections, so filed by the land owners, were rejected on 27.01.2022 and 02.02.2022. Finally, the declaration notification, under Section 19 of the 2013 Act, was published on 11.05.2022 and on 04.08.2022, the award was prepared under Sections 23 and 30 of the 2013 Act.

ARGUMENTS ADVANCED ON BEHALF OF THE PETITIONERS (EXCEPT CWJC NO. 7650 OF 2022)

16. Mr. Sumeet Singh, learned Counsel for the petitioners, appearing in all the writ applications, except CWJC



No. 7650 of 2022, argued that the decision to change the construction of depot from earlier two locations (mauza Aitwarpur and Ramchak Bairiya) to one location (mauza Pahari and Ranipur) is a decision taken in haste on contradictory reasons and without approval of the State Government and is bad in law. Earlier two depots were proposed at mauza Aitwarpur and Ramchak Bairiya, which is in the same side of the new Inter-State Bus Terminal. The DMRC made changes in the line alignment in order to save historical structures, i.e. archaeological complexes or for the reasons that large number of houses would be demolished. The letter/notification, dated 17.03.2020, by which the decision was taken to change the site from one place to another place with only one depot instead of two depots was not approved by the State Government. The letter, dated 17.03.2020, has suggested that instead of 21 houses, there would be demolition of 7 houses, would also save drainage problem, and will have seamless integration from the I.S.B.T. to proposed I.S.B.T. Metro Station.

17. The reasons for change of Metro depot is not correct as there is no historical structures and/or archaeological complex, there are no large number of houses, which are required to be demolished, the line alignment has been changed to protect the archaeological complex, at Kumhrar, but the depot area is having



no archaeological complex, there is no historical structure at mauza Aitwarpur and Ramchak Bairiya.

18. The line alignment was changed to avoid complexity and demolition of large number of house and others. One integrated depot has been decided to be constructed in front of I.S.B.T. The respondent nos. 5 and 6 have not given any answer with regard to the reasons as to why the one depot is there in place of two depots and in their counter affidavit, it has been stated that the construction of Metro depot from two locations to one location has been done due to technical reasons. There is no technical reason except to provide the additional area in the name of Property Development Area suggested by the DMRC to the extent of 11.2 Hectares.

19. He further argued that there will be less number of demolitions of houses in the earlier two locations, which would be evident from the following chart:

Sl. No.	Depot Name	Area to be acquired	Constructed units involved as per DPR
1.	Aitwarpur	14.4 Hectare	04
2.	NEW I.S.B.T. (Old proposal)	12.5 Hectare	02
3.	As per new proposal depot on eastern side of the new I.S.B.T. as per	30.5 Hectare	23 (As on November, 2019)



	revised DPR		
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20. The above chart will show that the total area from 26.9 hectares has been increased to 30.5 hectares. The revised detailed project report prepared by M/s Rail India Technical and Economic Service has been approved by the Government of Bihar on 17.03.2020 is incorrect; rather, an Office Order has been issued by the Urban Development and Housing Department (Annexure R-5).

21. In the supplementary counter affidavit, in fact the respondent nos. 5 has admitted that there are 37 houses in the drone survey map as given by the Metro yard which is higher in number. Thus, the entire action of the respondents regarding the change of depot site on technical reasons is nothing but a farce.

22. He next submits that now the question would arise as to whether the technical reason can be subject to judicial review. The answer would be ‘YES’, if the error is apparent on the face of it. Since, there is no archaeological complexes, there is no historical structures at the depot site, therefore changing the location from mauza Aitwarpur and Ramchak Bairiya to mauza Pahari and Ranipur is apparently incorrect. There would be more demolition at the new depot site, i.e. mauza Pahari and Ranipur, inasmuch as 37 houses in comparison to 32 houses at mauza



Ramchak Bairiya and Aitwarpur would required to be demolished. The total area, from 26.9 Hectares, has been increased to 30.5 Hectare at the new site of the depot, without there being any justification and in violation of Section 4 (4) (d) of the 2013 Act, which is in the garb of Property Development Area and given 11.2 Hectares out of 30.5 hectares for this purpose.

23. He further reiterated the letter, dated 17.03.2020, to say that the same has not been approved by the Cabinet of the State of Bihar; rather it is an Office Order, issued by the Urban Development and Housing Department, Government of Bihar, inasmuch as approval of the Cabinet has not been brought on record. 11.6 Hectares of land is being acquired in the name of development of the property near Metro depot, which is equivalent to 28.33 Acres. As such, 47.94 Acres of land is acquired for the construction of Metro depot and 28.66 Acres of land is for property development. Under this background, the entire process is an apparent error on the record itself.

24. This is a case of non-application of mind on the ground that no assessment was made by the respondents to consider the viability and need of a new Metro depot at the new site instead of the site based on earlier detailed project report.



25. Learned Counsel relies upon the decision of the Supreme Court, in the case of **Inderpreet Singh Kahlon and Others v. State of Punjab and others**, reported in **(2006) 11 SCC 356**, and **Bahadursinh Lakhubhai Gohil v. Jagdishbhai M. Kamalia and Others**, reported in **(2004) 2 SCC 65**, on the point of action taken in undue haste.

26. The next argument of Mr. Sumeet Singh is that the Social Impact Assessment Report, dated 14.06.2021, is bad on the ground of non-compliance of Section 4 of the 2013 Act read with the Bihar Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Rules, 2014 (herein after referred to as the '2014 Rules'). The Social Impact Assessment Report is perfunctory. The Social Impact Assessment Report needs to have the assessment with regard to proposed acquisition to serve public purpose, estimate of the affected families and the number of families among them likely to be displaced with extent of land and whether the extent of land proposed for the acquisition is absolute bare minimum extent needed for the project and also the alternative lands for acquisition is to be considered and if found not feasible, then the cost and the nature, the environmental impact assessment is to be done separately. The Social Impact Assessment Report has been



prepared without complying Sections 4 and 5 of the 2013 Act and Rules 5, 6, 7, 8, 9 and 10 of the 2014 Rules.

27. The alternative lands suggested by the petitioners, i.e. dumping yard and Sahara land, has not been considered in the Social Impact Assessment Report. Thus, the report is in teeth of Section 4 (4) (e) of the 2013 Act read with Rule 10 (3) of the 2014 Rules.

28. In the Social Impact Assessment Report, no finding, with regard to alternative land, has been given as well as requirement of bare minimum land, as required under Section 4 (4) (d) of the 2013 Act. The finding given in the Social Impact Assessment Report is no finding in the eyes of law inasmuch as from bare perusal of the conclusion, it would show that the language of the Social Impact Assessment Report has shifted the burden on land owners and the heading of the Social Impact Assessment Report, though mention the conclusion, but absolutely there is non-consideration of Sections 4 (4) (d) and 4 (4) (e) of the 2013 Act in the entire report. As such, the entire report is non-est and contrary to law.

29. Mr. Sumeet Singh, while assailing the Social Impact Assessment Report further submits that Rule 10 (3) of the 2014 Rules states about the preparation of Social Impact Assessment



Report under Form III, Clause 6 (C and D) of Form III states that the land proposed for acquisition is the bare minimum land and possible for alternative site for the project and its feasibility is to be observed. The data of socio-economic and cultural profile of the family must be prepared based on the available data and statistics in visits as per column-C. Rule 10 (6) of the 2014 Rules also states that all such preparation of collection of data in consultation with the affected communities is to be done as per Form-III and social impact management plan is to be prepared also. Form No. III to be prepared as per Rule 6 (3) of the 2014 Rules is to deal and cover the area as per Part C, that is the alternative site. It has also to consider rational for project including how the project fits the public purpose criteria in the Act, examination of alternatives, need for ancillary infrastructure facilities, description and rational for methodology and tools used to collect information for the Social Impact Assessment Report. The present use of any public unutilized land in the vicinity of the project under land assessment heading. Also, analysis of cost and benefit and recommendation and acquisition is to be prepared based on public purpose, less displacement, displacing alternative minimum requirement of land, the nature and intensity of social impact. Also, the analysis used in the equality principle to be done. All these aspects has not been



considered in the social impact assessment report in principle and in detail under the provisions of the 2013 Act read with 2014 Rules.

30. Mr. Sumeet Singh further argued that respondent nos. 5 and 6 have stated in their counter affidavit that altogether 759 objections have been filed, which justifies that there are more than 800 families, which would be affected, as objections against the acquisition of the land has been filed in a large number. Thus, it is much less than the total affected families, whom the Social Impact Assessment team has contacted. The Social Impact Assessment has been conducted by Development Management Institute, Patna in the month of June 2021, i.e. during High COVID-19 Wave. The various families, who have given objections to the Social Impact Assessment team, are the families which are being affected by the said acquisition having small plots for residential purposes. The size of Social Impact Assessment Report is small, which would show that the authorities themselves have stated that only 108 families have directly approached to talk, it means that the report prepared for Social Impact Assessment is without considering the majority of families, which is, in fact, less than 10 per cent.



31. The 2014 Rules states about the process to be conducted for the Public Hearing and Social Impact Assessment has to deal with every aspects and the data is to be collected in consultation with the affected communities and key stake holders.

32. As per Rules 6, 8, 10 and 11 of the 2014 Rules, the Social Impact Assessment team must provide the conclusive assessment of the balance and distribution of the adverse social impact and social cost and benefit of the proposed project and land acquisition, including the mitigation measures and provide assessment as to whether the benefit from the proposed project exceeds the social cost and adverse social impact. The entire report of the Social Impact Assessment, based on less than 10 per cent of the families, shows that the conclusion of the Social Impact Assessment Report is in itself very small, thereby defeating the aims and objectives of the Statute, especially Section 4 of the 2013 Act read with Rules 10 and 11 of the 2014 Rules.

33. Mr. Sumeet Singh, referring to Section 5 of the 2013 Act, argued that Section 5 of the 2013 Act read with Rule 11 of the 2014 Rules mandates the public hearing, which is to be done within twenty one days' mandatory notice, but the same has not been followed in the present case. The date of public hearing was announced on 01.06.2021 in the daily newspaper 'Dainik Jagran'



and the same was conducted on 04.06.2021, i.e. only 72 hours of notice for public hearing was given to the petitioners. Non-giving of 21 days' mandatory notice to the petitioners is in breach of the principles of natural justice also. An act is to be done in the manner prescribed and there cannot be departure from the said procedure.

34. The Ward Councillor of Ward No. 56 gave an objection to this effect to the District Magistrate, Patna, on 02.06.2021, stating therein that COVID-19 pandemic was prevailing in the entire country and still public hearing was held on 04.06.2021.

35. In the Social Impact Assessment Report, it has been stated that in the public hearing, 250 families have participated, which is also incorrect inasmuch as no signatures of the family members have been taken in the public hearing and in fact not more than 50 per cent have come and even those, who had appeared, have objected to the entire process. Out of 1300 families, only 111 stakeholder samples have been taken, which is less than 10 per cent.

36. The intent of the Legislature, while framing the 2013 Act was abundantly clear that they want to have say of each of the persons to be before the land is acquired and by the illegal act of



the respondents, the intent of the Legislature for framing the law has been defeated. At the same time, any work has to be done in accordance with law and if breach is apparent, then such process may be struck down. No authority has a right to take away the Constitutional right, as guaranteed under Article 300-A of the Constitution of India in the garb of public project, ignoring the mandate of law.

37. Mr. Singh further argued that the preparation of Social Impact Assessment Report, dated 14.06.2021, and its publication, were incorrectly done without conducting the extent of land proposed for acquisition being absolute bare minimum land for the project and without seeing as to whether land acquisition at an alternative place has been considered and found not feasible.

38. The Social Impact Assessment Report, under Section 6 of the 2013 Act, was not published in the affected area in such manner as prescribed under the 2013 Act and was also not uploaded on the website of the State. The respondents have not brought on record any document showing that the Social Impact Assessment Report was published in the affected area. Non-compliance with the procedure prescribed prior to the stage of Section 15 of the 2013 Act will render the submission of



objections by interested parties and the hearing on such objections meaningless. The objections raised by the petitioners have not been considered and they have faced huge hardships and prejudices. The suitability of the land proposed to be acquired has not been considered considering the exhaustive procedure prescribed for the Social Impact Assessment contemplated under the 2013 Act. The reasons assigned by the District Land Acquisition Officer, Patna, for rejection of the objections, as recorded in the report under Section 15 (2) of the 2013 Act, would show that the objections raised by the petitioners have not been considered at all.

39. He relied upon a decision of the Bombay High Court, in the case of **Manekbben Rama Tandel and Another v. The Collector, Daman Union Territory of Dadra and Nagar Haveli and Daman and Diu and Another (W.P. No. 2727 of 2022)** (paragraph 46), which says that any summary of the Social Impact Assessment Report, if any, in the report under Section 8 cannot be termed as due compliance with the mandatory requirements of publication of the notification under Section 4 and publication of the Social Impact Assessment Report as contemplated under Section 6.



40. Next challenge of the petitioners is the constitution of the Expert Committee, under Section 7 of the 2013 Act read with Rule 13 of the 2014 Rules. Section 7 (2) (b) of the 2013 Act mandates two representatives of Panchayat, Gram Sabha, or Municipal Corporation as the case may be. Meaning thereby, the representatives of the local elected body must be represented at the time of formation of Expert Committee. In the present case, there is non-compliance of the requirement of the local self-government. Formation of Expert Committee will show that the two persons, who were made part of Expert Committee were basically the members of different wards. One Amarjeet Kumar, Pramukh of the Panchayat Samiti, Patna Sadar and the second, Manoj Kumar Ward Councillor, Ward No. 67, were made members of the Expert Committee despite the fact that they were not remotely associated with the concerned ward/municipality. Both of them have written letter categorically stating that their signatures have been taken on paper and they have not consented being the members of the Expert Committee nor they were part of the area under acquisition.

41. Mr. Sumeet Singh emphasizes on the phrase “as the case may be”, used in Sections 4(1), 4(2), 4(6), 6 (1), 7 (2) (b), 7 (6), 8 (3) of the 2013 Act and Rules 6(1), 6(2) of 2014 Rules and submits that it would be depending upon the nature of locality, i.e.



if it is Panchayat, Municipality or Municipal Corporation, the concerned Panchayat, Municipality or Municipal Corporation will have the members as an expert and not otherwise.

42. In Legal Dictionary, Advance Law Lexicon, 5th Edition, (P. Ramanathanathaiyars), the word, 'as the case may be', has been discussed. The expression, 'as the case may be', has been defined based on various judgments that the one out of the various alternatives would apply to one out of the various situations and not otherwise. One will include more than one contingencies for one set of circumstances in the given case.

43. In the cases of **Union of India v. Ashok Kumar**, reported in **(2005) 8 SCC 760**, **Rajendra Lal Shadi Lal and Company Private Limited and Another v. the State of Maharashtra and Another (AIR 1980 BOMBAY 261)** and **Shri Balaganesan Metals v. M. N. Shanmugham Chetty and Others**, reported in **(1987) 2 SCC 707**, the phrase 'as the case may be' has been interpreted.

44. The selection of the members of the Expert Committee has to be based on a particular demography so that expert representatives of that locality can be part of the Expert Committee and give its final report on the social impact assessment. The report of the Expert Committee is subject to



approval by the State Government under Section 8 of the 2013 Act, which has to examine the proposal of land acquisition and Social Impact Assessment Report. The State Government has to give its finding, if any finding/recommendation is given by the Expert Committee.

45. In the present case, the formation of the Expert Committee is contrary to the intent of the Legislature and the same is bad in law. Accordingly, the report given by the Expert Committee is also bad in the eyes of law.

46. The Government has also not published the final social impact assessment report in the affected area in the manner prescribed under Section 8 (3) of the 2013 Act and also not uploaded on its website.

47. On the point of issuance of notification, under Sections 11, 11 (1) and 11 (3) of the 2013 Act, Mr. Singh argued that the notification under Section 11 (1) of the 2013 Act is a preliminary notification and Section 11 (3) is the embargo on Section 11(1) that it has to contain a statement on the nature of the public purpose involved, reasons necessitating the displacement of affected persons, summary of social impact assessment report and particulars of the Administrator appointed for the purposes of rehabilitation and resettlement under Section 43 of the 2013 Act.



48. It has further been argued that upon perusal of the notice, issued under Section 11 (1) of the 2013 Act and its heading would show that the project name is Patna Metro Rail Depot and it further states that there is no family which is likely to be displaced at mauza Pahari and Ranipur. It is incorrect to state in the notice that families are not being displaced; whereas the houses are constructed over the land under acquisition and the residential lands have been purchased in the small areas for construction of dwelling houses.

49. The respondent nos. 5 and 6, in their counter affidavit, have admitted that there are 23 houses, including 2 under construction houses and 15 boundary walls, which are to be demolished. In the supplementary counter affidavit filed by respondent nos. 5 and 6, a report, dated 18.04.2022, of the Deputy Director Food –cum- Deputy Officer, Revenue Branch, has been brought to the effect that no person is entitled for rehabilitation and resettlement for the project by a six-member committee. There are 37 houses and 101 boundary walls on the acquired land, as per the report submitted by the Executive Engineer, Building Division, Patna.

50. The respondent no. 10 has stated, in the counter affidavit, that there are 23 houses existing in mauza Pahari and



Ranipur and there are 32 houses in mauza Aitwarpur and Ramchak Bairiya (New I.S.B.T.). The notification does not state how many families are going to be affected; rather, surprisingly, in the opposite, it is stated that there are no families, which are going to be displaced.

51. The State Government has completely bypassed the procedure prescribed under Section 16 of the 2013 Act, which is for preparation of rehabilitation and resettlement scheme by the Administrator. Section 16 (5) of the 2013 Act speaks about public hearing, which shall be conducted in such manner as may be prescribed. Section 18 of the 2013 Act talks about the proved rehabilitation and resettlement scheme to be made public and Section 19 (2) states that the Collector has to publish a summary of the rehabilitation and resettlement scheme along with the declaration referred under section 19 (1).

52. Mr. Singh next argued that the petitioners' objections, filed under Section 15 of the 2013 Act, have been rejected perfunctorily by the District Land Acquisition Officer, Patna. The petitioners, in their pleadings, have clearly stated that their objections have vaguely been rejected in one line or 3-4 lines and no objection has been dealt with separately. The objection of petitioner No. 2, with regard to availability of alternative land, it



has been stated that so far as the issue of alternate land is concerned, action cannot be taken at the level of District Land Acquisition Office. The District Land Acquisition Officer, Patna, while rejecting the objection, has mentioned that the Social Impact Assessment Report has stated with regard to more benefit than the negative impact. In fact, a new finding has been given with regard to constitution of six-member committee for higher compensation. The entire exercise was an empty formality, there is a procedural impropriety, non-application of mind and non-consideration of the objections in terms of the statutory provisions.

53. The commentary of H. Heverley's Vol. 1, 10th Edition, 2020, discusses about Section 15 and says that the provision of Section 15 of the 2013 Act is almost similar to Section 5-A of the Land Acquisition Act, 1894. The only difference in the 2013 Act and the 1894 Act is that so far hearing of the objections are concerned, the objections are heard under the new provisions of 2013 Act at 3 levels; first, at the time of Public hearing under Section 5, while preparing the Social Impact Assessment Report under Section 4; secondly, the objection is heard under Section 15 (1), when the notification is issued under Section 11; and thirdly, the objection is heard under Section 16 (5) by the Administrator with regard to Rehabilitation and



Resettlement scheme. Under the 2013 Act, the public hearing is under section 5 (A) of 1894 Act.

54. Mr. Singh relies upon the decision of the Supreme Court, in the cases of **Dev Sharan and Others v. State of Uttar Pradesh and Others**, reported in **(2011) 4 SCC 769** and **Kamal Trading Private Limited v. State of West Bengal and Others**, reported in **(2012) 2 SCC 25**, in which the Supreme Court has dealt the aspect as to whether the objections if filed and not considered then it would amount to non-application of mind and set aside the acquisition proceeding on this ground.

55. In the case of **Hindustan Petroleum Corpn. Limited v. Darius Shapur Chennai and Others**, reported in **(2005) 7 SCC 627**, a question arose that whether judicial review can be done if there is any illegality, irrationality, and procedure impropriety is being found. In the said case, the High Court has set aside the land acquisition proceeding, as objections were not considered. The Supreme Court has held that there cannot be any doubt that due application of mind on the part of statutory authority was imperative.

56. The case of **Surinder Singh Brar and Others v. Union of India and Others**, reported in **(2013) 1 SCC 403**, relates to acquisition of land for IT park. In the said case,



objections were filed and the same were rejected. The Supreme Court, while examining the entire facts, has observed that the objections, though rejected by the District Land Acquisition Officer, but the District Land Acquisition Officer had not applied his mind to the objections of the land owners and merely created a facade of doing so.

57. On the point of deciding the objections, Mr. Singh further relied upon the decisions of the Supreme Court, in the cases of **Kedar Nath Yadav v. State of West Bengal and Others**, reported in (2017) 11 SCC 601, **Raghubir Singh Sehrawat v. State of Haryana and Others**, reported in (2012) 1 SCC 792 and **Usha Stud and Agricultural Farms Private Limited and Others v. State of Haryana and Others**, reported in (2013) 4 SCC 210.

58. Mr. Singh next relied upon the decision of the Supreme Court, in the case of **Shiv Singh and Others v. State of Himachal Pradesh and Others**, reported in (2018) 16 SCC 270, in which the land acquisition was rendered under the new Act and public notice and non-compliance of Section 15 (2) of the new Act has been discussed. The Supreme Court held that it is mandatory on the part of the Collector to comply with the procedure prescribed under Section 15(2) of the Act so as to make the



acquisition proceedings legal and in conformity with the provisions of the Act.

59. Mr. Singh next relied on a decision of the learned Single Judge of Jaipur Bench of Rajasthan High Court, in the case of **Alok Kothawala and Others v. State of Rajasthan (S.B. Civil Writ Petition No. 10504 of 2012)**. The matter related to acquisition of land for Jaipur Metro Rail Project and Metro Car Depot, wherein the acquisition of land under Section 4 of the Land Acquisition Act 1894 was issued.

60. Mr. Singh next argued that the declaration notification, issued under Section 19 of the 2013 Act, has not considered the mandatory provisions of law. In the present case, no such report has been submitted under Section 15 (2) of the 2013 Act by the Collector. There is no publication of the summary of the rehabilitation and resettlement Scheme along with the declaration referred under section 19 (1) of the 2013 Act. The 2014 Rules also prescribes, under Rule 24 (1), that upon receipt of a report of the Collector as provided under sub-section (2) of Section 15, a declaration for acquisition of the land under sub-section (1) of Section 19 of the Act along with the summary of the Rehabilitation and Resettlement Scheme shall be made by the Government in FORM VII, provided further that no declaration shall be made



unless the requiring body has deposited an amount in full towards the cost of acquisition of the land.

61. Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Compensation, Rehabilitation & Resettlement and Development Plan) Rules, 2015, has been framed by the Government of India in exercise of power conferred under Section 109 (1) and (2) of the 2013 Act.

62. Accordingly, Mr. Singh's submission is that there is complete breach of the mandate of law. No such report has been sent by the Collector along with the objections rejected by the District Land Acquisition Officer, Patna and no such document has been brought on record by the respondents to the notice of this Court.

63. On the point of preparation of award, Mr. Singh argued that the language used in the award would itself make it clear that it has been prepared in complete violation of Section 30 of the 2013 Act, which mandates that the Collector shall issue individual awards, detailing the particular of compensation payable as specified in the First Schedule. In the present case, determination made under Sections 23 and 30 of the 2013 Act makes it clear that there is no individual award; rather, a



compilation has been done under Form No. 9 of 2014 Rules. This is in complete breach of the 2013 Act and 2014 Rules.

64. Mr. Singh further argued that the language used in the award will itself make it clear that it has been prepared in complete violation of Section 30 of the 2013 Act, which mandates that the Collector shall issue individual awards detailing the particulars of compensation payable and details of the payment of the compensation as specified in the First Schedule. He next argued that no land can be acquired without following the due procedure of law as it violates Article 300-A of the Constitution of India inasmuch as it is not only a constitutional right, but a human right as well. It is necessary for the acquiring body to follow the due procedure of law, as the same has been held in various landmark decisions of the Supreme Court.

65. Mr. Singh relied upon the decisions of the Supreme Court, in the cases of **Vidya Devi v. State of Himachal Pradesh**, reported in (2020) 2 SCC 569, **B. K. Ravichandra v. Union of India**, reported in (2021) 14 SCC 703 and **D. B. Basnett v. L.A.O.**, reported in (2020) 4 SCC 572.

66. The petitioners also relied upon the selective parliamentary debate and speeches and objectives of the 2013 Act and submits that the 2013 Act was introduced with the objective to



do away with certain British era provisions regarding forceful acquisition of land and utmost violation of right to property, as enumerated under Article 300-A of the Constitution of India and to make the land acquisition as a consultative, participatory process of the land owners as well and the same has been manifested from the speech of the then Hon'ble Minister for Rural Development.

67. Another Hon'ble Minister of the House, while introducing the Bill of the 2013 Act, highlighted its aims and objectives and stated that this Bill will ensure a humane, participatory, informed consultative and transparent process for land acquisition for industrialization, development of essential infrastructural facilities and urbanization with the least disturbance to the land owners and other affected families and provide just and fair compensation to the affected families, whose land has been acquired or proposed to be acquired or are affected by such acquisition and make adequate provisions for such affected persons for their rehabilitation and resettlement thereof, and for ensuring that the cumulative outcome of compulsory acquisition should be that affected persons become partners in the development leading to an improvement in their post-acquisition social and economic status and for matters connected therewith or incidental thereto to be taken into consideration.



68. Another Hon'ble Member of the House, while highlighting the purpose of the Bill, said that the provision of Rehabilitation and Resettlement issues was never dealt in Land Acquisition Act and any land acquisitions legislation thus committing a horrible injustices to the land owners, especially marginal land owners and the farmers, whose livelihood depends upon the land and the same has been acquired only in lieu of the one-time compensation. For the first time, a Bill has been presented which not only talks about the land acquisition, but an attempt has been made to link rehabilitation and resettlement with land acquisition.

ARGUMENT ADVANCED ON BEHALF OF THE PETITIONERS OF CWJC NO. 7650 OF 2022

69. Mr. Basant Kumar Choudhary, learned Senior Counsel for the petitioners, in CWJC No. 7650 of 2022, while adopting the arguments advanced by Mr. Sumeet Singh, argued that the law makers had made a major departure in the 2013 Act completely jettisoning the archaic law of doctrine of eminent domain and purported to make a fair and transparent law in the larger public interest, restricting the power of State to acquire the land at the will simply by stating that the acquisition was in public interest. In the 2013 Act, he pointed out the provisions of law with special features, like Section 2 (Application of Act). Section 4



(Preparation of Social Impact Assessment Study), Section 5 (Public hearing for Social Impact Assessment), Section 6 (Publication of Social Impact Assessment Study), Section 7 (Appraisal of Social Impact Assessment report by an Expert Group), Section 8 (Examination of proposals for land acquisition and Social Impact Assessment report by appropriate Government), Section 15 (Hearing of objections), Section 16 (Preparation of Rehabilitation and Resettlement Scheme by the Administrator), Section 17 (Review of the Rehabilitation and Resettlement Scheme) and Section 19 (Publication of declaration and summary of Rehabilitation and Resettlement), etc.

70. From the aforesaid quoted provisions of law, it is crystal clear that the hands of the executives are no more unchecked and unrestricted and the executive is supposed to strictly follow the procedure provided therein sincerely and bonafide. Any insincerity, unreasonableness and non-application of mind by executive while purporting to acquire land is not permissible and that will vitiate the whole proceeding of the acquisition.

71. Mr. Choudhary further argued that after the present law of acquisition came into existence, the Hon'ble Supreme Court, in the case of **K. S. Puttaswamy and Another v. Union of**



India and Others, reported in **2017 (10) SCC 1**, while discussing the scope of right to privacy held that Article 21 of the Constitution of India is a declaration of life and liberty, which comprises of many other fundamental rights, such as Right to Shelter also. Hence after declaration of right to shelter as fundamental right. the State respondents have to be extremely careful circumspect while acquiring the dwelling houses for any purpose, much less for constructing a mall and market in order to add the income of PMRCL. Sub-clauses (a) to (f) of Clause (2) of Section 2 of the 2013 Act though permits acquisition for constructing private hotels but explicitly prohibits construction of malls and markets.

72. The facts of existence of houses of the petitioners has been taken note of by the Social Impact Assessment Committee. The Committee has further concluded that the houses, in question, should not be acquired and the alignment should shift 500 to 600 meters south where there are no houses. The Committee further concluded that construction of malls or multiplex will lead to congestion of traffic and pollution since Inter-State Bus Terminal of Patna is to be constructed/established there.



73. Further, recommendation of the Social Inspection Team is that those houses, which are being affected on account of acquisition, should be given alternative sites. All the aforesaid conclusions, observations and recommendations of the Social Impact Assessment Committee have completely been ignored by the State respondents. Sub-clause (d) of Clause (4) of Section-4 of the 2013 Act clearly mandates the Social Impact Assessment Committee to see whether the extent of land proposed for acquisition is the absolute bare minimum extent of land needed for the project. The purported exercise to acquire the houses of the petitioners clearly shows that it does not come under the conception of bare minimum land acquired for the project.

74. The petitioners filed several representations to the authorities, which has already been annexed in the writ applications. It has been submitted that the District Magistrate, Patna, has not yet considered those representations, though the Office of District Magistrate, vide letter, dated 21.04.2022 (Annexure 17) constituted a team to enquire into the facts as to how many houses/ boundary walls have to be affected.

75. The argument of the State that the land, in question, is acquired for the purpose of property development is simply ridiculous, bogus and fit to be rejected. The construction of malls,



by no stretch of imagination, can be said to be integral to the depot nearby. The integral part of the depot is work shops, sheds, tracks, domestic canteen for the workers, residential quarters for the workers and is no case, it can be a mall.

76. The stand of the respondent-State that the construction of malls and markets will generate revenue is simply a ridiculous and cruel joke with the petitioners and others, whose houses are standing there. According to the estimate, nearly 2 lakhs riders are estimated to use the metro every day, which will go on increasing when the entire Patna Metro Project will be functional. This metro project will not only provide a rapid transportation of men and goods, but will also go a long way to reduce congestion on the roads of the Patna, decrease the carbon level in the city and saving of citizens' time which are of immense quantifiable values. The State Government has to spend only 20 per cent of value of total work and, therefore, Patna Metro will never prove to be a burden on exchequers if the Patna Metro is administered efficiently and competently by the professionals and experts. The map (Annexure 19) will clearly show the position of houses, in question, in blue squares and plenty of vacant lands available on the southern and northern side of the houses, in question. In CWJC No. 7650 of 2022, there are 20 persons, whose



houses are standing over the land acquired for the purpose of property development and admittedly, in the total area acquired for the purpose of depot and property development area, there are 37 houses, some fully constructed and some are semi constructed. There is one Sanjay Gandhi Divyang Hospital also. No work has been started in the property development area till now. Thus, it would not make any loss to the Patna Metro by shifting the property development area to new Inter-State Bus Terminal contiguous to depot.

77. Section 19 (5) (b) of the 2013 Act clearly envisaged that in the Gazette notification and the declaration, the purpose of the land acquired and the area must be clearly mentioned, but in the present case, the notification goes to show that the lands are acquired for the public purpose and now the Patna Metro is intending to establish part of the land acquired for the purpose of property development area for revenue generation at the cost of displacement, which is contrary to the scheme introduced in the 2013 Act. The averment, which has, now, been made by the PMRCL as well as the State that the property development area is an integral part of the depot is absolutely misconceived and unfounded. The exemption of standing houses from acquisition



will, in no way, affect the track or depot, which would be evident from the map.

ARGUMENTS ADVANCED ON BEHALF OF THE STATE

78. Mr. P. K. Shahi, learned Advocate General, representing the State respondents, argued that that launching of Patna Metro Rail Project is an ambitious project, which will prove a game changer in future.

79. He next argued that the Metro Rail, all over the world, is recognized as an efficient, economical and faster mode of public transport. The size and population of Patna, over the last two decades, has grown exponentially, commuters have increased manifold and the business activities, which was confined at select places, have spread over to every nook and corner of the city. The Government of Bihar has so far done its best to broaden, increase and maintain length of road in the city. However, there is a limit to the expansion of road network. As a result of expansion of business activity coupled with manifold increase in the population, the pressure of commuters has led to congestion, traffic snarls and practically unmanageable traffic on roads. Manifold growth of vehicular traffic has made the life worst. Not only the roads are more often than not congested and witness long hours of traffic jam, but it is also taking a toll on environment. The emission of



carbon dioxide/carbon monoxide has polluted the city. Most of the time, air quality index is extremely hazardous causing serious health issues. Pollution, by motorized vehicles, poses a serious threat to the health of the people.

80. Every urban conglomerate, therefore, has a responsibility to not only provide an efficient means of public transport, but also to minimize the causes of pollution. Rail transport, worldwide, has been considered as an alternate, efficient and faster mode of public transport. Wherever, metro rail has been launched and made functional, it has provided manifold benefits not only to the commuters in general, but also in reducing overall air pollution. Experience has proved that metro rail, connecting end to end in urban areas, is the best mode of efficient and non-pollutant commutation.

81. At present, in the city of Patna, the only means of transport is either private transport or motorized road transport. Keeping in view the present scenario of the transportation system, The Government of Bihar had planned of introducing Metro Rail Project.

82. Once the concept of introducing metro rail was conceived, the work to accomplish the same started. A detail deliberations with the experts took place over the years. A detail



project report was prepared and deliberated time and again. It was considered appropriate to rope an agency having the experience of successfully implementing Metro Rail Project, its commissioning and operationalization. Accordingly, in principle, it was resolved to take help of DMRC. DMRC needs no introduction as the Corporation is known for successfully completing the Delhi Metro Project, which is one of the most successful project in the world. It has almost covered entire National Capital Region of Delhi. Accordingly, after several round of deliberations, the Government of Bihar formalized its association with DMRC.

83. The Patna Metro Rail Project (in short, 'PMRP') is an ambitious infrastructure project in larger public interest and for public convenience and the same is a joint venture of the State Government of Bihar and Government of India. In February, 2016, the Government of Bihar has approved the detail project report of PMRP, which had two depots, the first one at Aitwarpur and the second one at Ramchak Bairiya, on the western side of State Highway No. 01.

84. M/s Rail India Technical and Economic Service, a Government of India Undertaking, was entrusted with the task of seeing the feasibility of PMRP and preparation of detail project report by the Urban Development and Housing Department,



Government of Bihar, Patna, who, in turn, submitted the detail project report. The Government of Bihar, vide Letter No. 422, dated 02.03.2016, has given the administrative approval in principle of the PMRP and forwarded the proposal of PMRP, along with detail project report to the Ministry of Urban Development, Government of India, vide Letter No. 486, dated 11.03.2016. The Government of India, vide Letter No. K-14011, dated 01.09.2017, has returned the project report for getting the same updated in terms of the Metro Rail Policy. 2017.

85. According to the Metro Rail Policy, 2017, inclusion of Comprehensive Mobility Plan (CMP), Alternative Analysis (AA), Transit Oriented Development (TOD), Value Capturing Finance (VCF) and Non-Fare Box Revenue etc, are required.

86. M/s Rail India Technical and Economic Service, after including the above said Comprehensive Mobility Plan, Alternative Analysis, etc., upgraded the project report, and as per the upgraded project report, the total estimated cost of the PMRP comes to be Rs. 17,887.56 crores for execution of project on the basis of Special Purpose Vehicle model.

87. The project report of the first phase of PMRP, having two corridors as submitted by the M/s Rail India Technical and Economic Service is East-West Corridor and North-South



Corridor. The Government of Bihar and the Central Government is bearing the equal share of the project cost, i.e. 20 per cent each and rest 60 per cent of the project cost is funded by Japan International Credit Agency on long term loan basis.

88. The State Government, vide Letter No. 5244, dated 09.10.2018, has accorded administrative approval after getting approval of the State Cabinet for sending the PMRP and upgraded detail project report to Central Government.

89. The PMRCL has been incorporated for the said project as Special Purpose Vehicle. The construction work of the aforesaid two corridors of PMRP, along with depot and property development area, were allotted to DMRC on 04.09.2019 on nomination basis, on which the Cabinet has accorded its sanction on 03.09.2019. Thereafter, Memorandum of Understanding/ agreement was signed between PMRCL and DMRC on 25.09.2019.

90. After physical/actual verification of the PMRP, the DMRC suggested some changes in the line alignment in order to save historical and archaeological site of Kumhrar and it was also suggested that instead of two depots, only one depot shall be constructed at the eastern side of State Highway No. 01, at mauza Pahari and Ranipur. The detail project report was sent to M/s Rail



India Technical and Economic Service with the aforesaid suggestions, who, in turn, prepared a fresh project report of the PMRP, having only one depot at mauza Pahari and Ranipur, which has been approved by the State Government on 17.03.2020. The revised project report was also considered and approved by the Japan International Credit Agency as well as the Government of India.

91. As per the revised project report, the total cost of PMRP is, now, reduced to Rs. 13,365/- crores. Requisition for total 76.6450 acres of land has been made by the PMRCL. Since 0.10 acre of land, at mauza Pahari and 0.60 acres of land, at mauza Ranipur was Gair Mazarua Aam land, the same was transferred to PMRCL, and for rest land, i.e. 75.95 acres, required for construction of depot and property development area, acquisition proceeding was initiated.

92. Social Impact Assessment study was conducted by Development Management Institute, Patna, in which 250 people as well as representative of Ward No. 56 had participated. After considering all the aspect of the matter, the Development Management Institute, Patna, submitted its report on 14.06.2021, recording that the positive impact is higher than the negative impact and is in continuity, therefore, the Government should take



prompt action so that the benefits of the project reaches to the public. The Social Impact Assessment report was examined by an independent Expert Committee, duly constituted in terms of Section 7 of the 2013 Act and the Expert Committee has recommended the proposed acquisition for timely completion of the project.

93. Altogether, 759 objections were submitted and after affording the opportunity of hearing to all the objectors, all the objections were duly considered and disposed of by the District Land Acquisition Officer, Patna, vide order, dated 02.02.2022, passed in L. A. Case No. 29 of 2021-22 and L. A. Case No. 30 of 2021-22. Out of entire 759 objections, 221 objections were with regards to publication of their names, which were accordingly published; 531 objections were with regard to not giving their land, which did not come under the purview of objections and remaining 7 objections were with regard to making payment of compensation as per commercial value or giving job.

94. After hearing all the objections and disposal of the same, under Section 15 (2) of the 2013 Act, it has been sent to the Revenue and Land Reforms Department, Government of Bihar, Patna, which has been approved by the appropriate government. Notification, under Section 19 of the 2013 Act was published on



11.05.2022 and award was prepared in L. A. Case No. 29 of 2021-22 for 50.595 Acres at mauza Pahari on 04.08.2022 and in L. A. Case No. 30 of 2021-22 for 25.35 acres of land at mauza Ranipur on 05.09.2022.

95. The physical possession of the entire 75.95 acres of land was handed over to PMRCL on 10.09.2022 and the structures and construction over the acquired land had been measured by a Six-men Committee on 11.10.2022. The estimation of the structures and construction was verified on 22.11.2022, in which altogether 37 houses and 101 boundary walls have been found.

96. The total number of original raiyats were 110, total number of plots acquired was 82, total number of persons/land owners going to be affected was 1362, total number of houses situated over the acquired land was 37, number of petitioners before this Court is 63, total area of the writ petitioners (except in CWJC No. 7650 of 2022) is 1.8963 acres, which is less than 3 per cent of the total acquired land) and Rs. 130.03 crores have already been disbursed to the land owners as compensation. In any case, the total land, in all the writ petitions pending before the Hon'ble Patna High Court, is approximately 4.47 acres, which is only 5 per cent of the total acquired land. The total number of applications received for compensation for disputed plots is 288 and number of



applications which are under process for payment of compensation is 32. An amount of Rs. 20 crores has already been deposited with Land Acquisition Rehabilitation and Resettlement Authority in course of disposal of claims of compensation to the raiyats. The total expenditure incurred over construction of PMRP, till 30th September, 2023, is Rs. 2,781.83 crores, out of which Rs. 65 crores have been incurred over construction of depot.

97. The total area acquired for the depot is 44.76 acres, total area acquired for property development is 28.39 acres, the physical completion of depot is about 44 per cent, financial completion of the depot is 42.5 per cent and the time for completion is 2025.

98. He further argued that it needs to be emphasized that in any Metro Rail, its viability is not dependent only on fare recovered from commuters and its viability also depends upon Non-Fare Box Revenue. In other words, metro rail must have component of commercial utilization of its property, including metro stations, depots etc. Everywhere in the world, including in India, where metro rail project has been launched, it necessarily includes components of revenue to be generated from sources other than fare.



99. The property development by the Metro Rail is one of the accepted modes of resource mobilization towards capital cost as well as sustainable operation. The property development by Metro Projects is in line with the global example as Metros are highly capital intensive projects and the only way they can remain financially healthy, without government subsidy, is to increase the non-operational revenue, i.e. revenue from advertisement, retailing, real estate, parking lot etc., as in the case of Hong Kong and other international Metros is done.

100. He, referring to letter, dated 30.03.2009, as contained in letter no. K-14011/8/2000, issued by the Ministry of Urban Development, Government of India (Annexure M to the supplementary counter affidavit filed on behalf of respondent nos. 5 and 6), argued that paragraph nos. 3(ii), 3(iv) and 3(v) says that while notifying land acquisition, the aspect of property development would also suitably be taken care of, raising resources through property development is one of the ways of mobilizing resources for the project, therefore, the word "Project" would also include "Property Development" and the property development on the acquired land shall also be considered as part of the project.



101. Accordingly, in the original project report, which was approved by the State Government on 02.03.2016 and submitted to Ministry of Urban Development, Government of India, on 11.03.2016, the Government of India, after detail scrutiny, required to re-look at the project report and accordingly the same was returned on 01.09.2017. It was categorically mentioned that the project report need to factor the policy incorporated in Metro Rail Policy, 2017.

102. On receipt of directives of Ministry of Urban Development, Government of India, the project report was again referred to the consultant Development Management Institute, Patna, Development Management Institute, Patna, revised its detail project report by including above referred components including Non-Fare Box Revenue, which has been considered and approved by the Japan International Credit Agency as well as Government of India. PMRP is a composite project and depot and property development area is the integral part of the PMRP.

103. He next argued that the earlier estimated cost of construction of the PMRP, having two depots, was Rs. 17887.56 crores; whereas, as per the revised detail project report, having only one depot, the estimated cost of constructions of the project reduced to Rs. 13365 crores.



104. He further argued that project authority, noticing that the line alignment of North-South Corridor of the PMRP has to be revisited in order to save archaeological sites and large number of structures, changed the line alignment and also relocated the inter changeability junction. Besides the above, in the earlier proposal, land for depot was identified at two places, both at east and west of the State Highway. In course of execution, the project authorities realized that the alignment needs to be changed and instead of two depots, only one depot with inter-changeability at Khemnichak would serve the purpose. The construction of depot, at present site, is also beneficial for seamless integration between the Inter-State Bus Terminal and I.S.B.T. Metro Station. The present depot is adjacent to proposed I.S.B.T. Metro Station, which is Terminal Station and, therefore, operationally and financially is found to be most suitable by the PMRCL. It was in the interest of PMRP to have depot at one place instead of two depots, at two different locations. Accordingly, the project report was again revised incorporating the revised alignment and laying of metro rail, which was approved by the State Government on 17.03.2020.

105. At no point of time, the award, dated 04.08.2022 and 05.09.2022, was challenged. It is only when the State resumed



its submission in the writ applications, the petitioners filed an interlocutory application, I. A. No. 06 of 2023, praying for amending the prayer made in the writ application to challenge the award. The said interlocutory application was allowed by this Court, on 05.09.2023.

106. The land owners, whose land is sought to be acquired, have largely opposed to the acquisition itself. Several attempts were taken to stall the acquisition. One Balram Kumar filed a writ application, bearing CWJC No. 862 of 2022, in the form of Public Interest Litigation. He was championing not only his cause, but cause of all land owners. He had prayed, *inter alia*, for quashing of the notification, issued under Section 11 of the 2013 Act. By order, dated 28.01.2022, this Court has permitted him to file a representation and appear before Collector, Patna. He appeared before Collector, Patna, who, after hearing the petitioner and other concerned, has rejected the objection by a reasoned order, dated 01.04.2022. Again Balram Kumar moved before this Court, by filing CWJC No. 7427 of 2022 and this Court observed that "we are also of the considered view that the project i.e. construction of metro railways cannot be stalled, as is being sought to be done by the petitioner by filing petitions/applications repeatedly before various fora, including this Court".



107. Some of the land owners have filed the present writ application, and this Court, by order, dated 19.07.2022, has not only refused to grant any interim protection, but further said that the project work shall continue. The order, dated 19.07.2022, was challenged before the Supreme Court, in SLP (C) No. 18118 of 2022 and the Supreme Court, vide its order, dated 21.10.2022, observed that it is not appropriate to interfere with the impugned order, which is interim in nature and the Supreme Court requested this Court to dispose of the writ petition at the earliest. Again the petitioners moved before the Supreme Court, in SLA (C) No. 12067 of 2023 and grant of any interim protection was declined by the Supreme Court.

108. The Government has been magnanimous in the interest of the land owners, whose land has been acquired by considering the entire land as residential for the purpose of payment of the compensation amount, though there are only 37 houses and 71 boundary walls (total 108 structures) over the entire 75.94 acres of land, which has been acquired. The major/rest part of the acquired land is vastly used for the agriculture purpose, such as growing of vegetables etc. Accordingly, the Six-men Committee, in its report dated 22.06.2021, has unanimously considered the nature of the entire land under acquisition as



residential under mauza Pahari, Thana no-14. The said land is south to National Highway No. 30 and East to Patna Masaurhi Main Road. The Plot No. 1306 and 1313 under the said mauza, which is adjacent to Patna Masaurhi Main Road, has been considered as residential Main Road. The nature of the land under mauza Ranipur, under Thana No. 19, has also been considered to be residential branch road by the said Committee. By way of treating the entire land as residential, the land owners would be getting much more amount of compensation in comparison to the compensation amount they would have been getting treating the land as agriculture in nature.

109. As per section 26 of the 2013 Act, for determination of the market value, the higher of the rates of MVR and the average rate of the sale deeds of three preceding years is taken for payment of the compensation amount. For the Residential Branch Road, the higher average rate of the 50 per cent sale deeds has been found to be Rs. 5,53,97,282/- per acre; whereas, the MVR for the mauza Pahari has been found to be Rs. 5,50,00,000/- per acre. Thus the higher rate of Rs. 5,53,97,282/- per acre has been considered for the payment of the compensation amount as per the provision under section 26 of the 2013 Act. Similarly, for the Residential main road, the rate of Rs.



7,59,37,500/- per acre has been decided which has been approved by the competent authority i.e. the Collector, Patna, vide letter no. 396, dated 04.06.2022.

110. The rate fixation of mauza Ranipur has also been done on basis of the MVR sent by the Sub-Registrar, Patna City, and the rate of the sale deeds of preceding three years and the higher rate among the two has been taken for payment of the compensation amount i.e. for the Residential Branch Road. The higher average rate of the 50 per cent sale deeds has been found to be Rs. 3,34,14,955/- per acre; whereas the MVR for the mauza Ranipur has been found to be Rs. 3,30,00,000/- per acre. Thus, the higher rate of Rs. 3,34,14,955/- per acre has been considered for the payment of the compensation amount as per the provision under section 26 of the 2013 Act, which has also been approved by the competent authority i.e. Collector, Patna, dated 19.05.2022. Apart from the amount of compensation, under Section 26 of the 2013 Act, amount of 100 per cent solatium, under Section 30, has also been added in the award and it also include the interest amount as per the provision of the 2013 Act. Apart from the amount of compensation and solatium, estimated cost, as determined by the Six-Men Committee, for the structure and



boundary walls over acquired land, has also to be paid to the land owners.

111. Thus, it is apparent from the aforesaid facts that the award prepared for the payment the compensation amount to the affected persons, including the petitioners, has been done in accordance with the provisions of the 2013 Act, and if petitioners are dissatisfied with the award at all, they may resort to the remedy available under section 64 of the 2013 Act.

112. Since, the possession of the acquired land has been taken over by the PMRCL, it has made substantial development both physical and financial. Up till 30th September, 44% physical progress has been achieved and 42.5% financial investment have been made. If any interference is made at this stage the entire PMRP would get totally derailed and frustrated. It may also to be kept in mind that whether, at the behest of land owners, whose only 05 acres of land is involved in these writ applications, the entire acquisition can be jeopardized.

113. Learned Advocate General relied upon the decision of the Supreme Court, in the case of **Nand Kishore Gupta and Others v. State of Uttar Pradesh and Others**, reported in (2010) 10 SCC 282, **G. Narsing Rao (Died) through LRS v. The National Highway Authority of India and Another (SLP (C)**



Nos. 9314-9315/2022), Ramji Veerji Patel and Others v. Revenue Divisional Officer and Others, reported in (2011) 10 SCC 643, Ramniklal N. Bhutta and Another v. the State of Maharashtra and Others, reported in (1997) 1 SCC 134, Godrej and Boyce Manufacturing Co. Ltd. v. State of Maharashtra through the Government Pleader and Others (Writ Petition No. 3337 of 2019), State of Haryana v. Eros City Developers Private Limited and Others, reported in (2016) 12 SCC 265, and Dr. Abraham Patani of Mumbai and Another v. State of Maharashtra and Others, reported in (2022) SCC ONLINE SC 1143.

114. Learned Advocate General, referring to the aforesaid decision, argued that the Supreme Court has explained by saying that even if there is procedural irregularity, acquisition of land for infrastructural project in public interest should not be stalled. The Supreme Court has held that exercise of discretionary jurisdiction under Article 226 of the Constitution of India should be very circumspect and not only on making of a case even if there are certain procedural violations, the land owners are entitled to be appropriately compensated.

115. He, then, argued that the second question relates to the selection of land. The petitioners' contention is that alternative



land suggested by them was not taken into consideration. In the counter affidavit of PMRCL, it has been elaborately explained that the present site is more suitable for the project in comparison to suggested site. Besides, PMRCL. has also averred that the project cost would go up by approximately Rs. 500-700 crores, if the site suggested by the petitioners is selected for work of depot and property development area. Moreover, it is held in a catena of decisions of the Supreme Court that selection of land, unless shown to be the arbitrary, unreasonable and mala fide is the domain of the acquiring authority. The petitioners have not alleged any mala fide. The petitioners have further not shown any arbitrariness or unreasonableness in the selection of the land. On the other hand, the respondents have demonstrated the need for selection of the present land with sufficient justification. It is, therefore, not open for the Writ Court to substitute the views of acquiring authority. In this regard, reference has been made to the case of **Ramji Veerji Patel** (supra).

116. In the case of **G. Narsing Rao** (supra), the Supreme Court has held that the National Highway Authority can be said to be the best judge to decide which land is to be acquired and which not to be acquired for the purpose of constructions of the Highways.



117. The petitioners have also raised an issue with regard to component of property development. It need not be repeated again that the Metro Rail Project is a composite project consisting not only ferry of commuters, but of many essential items including property development. In the Metro Rail Policy of 2017, the necessity of including public property development has been emphasized. It has already been pointed out that in order to make a Metro Rail Project viable, it must be able to generate revenue from Non-Fair Box also and the property development is one of the modes to generate revenue from Non-Fair Box.

118. The Supreme Court has considered all these aspects, in details, in the case of **Soora Ram Pratap Reddy and Others v. District Collector, Ranga Reddy District and Others**, reported in **2008 (9) SCC 552**, **Nand Kishore Gupta (supra)** and **Eros City Developer (P) Limited (supra)**.

119. The PMRP, having commercial components, is an essential facet of infrastructure development. It would, thus, be evident that the petitioners have not been able to make out a case for interference by this Court in exercise of its extra ordinary writ jurisdiction under Article 226 of the Constitution of India.

120. It needs no repetition that commissioning of Metro Rail project is with an object of subserving greater public interest.



If this is an issue between public interest for the benefit of entire population and private interest of few individuals, public interest must prevail. The determination of compensation has been done strictly in accordance with statutory provisions and even though it is not yet a residential area, the entire land has been classified as residential area and compensation has been determined on that basis. The procedural requirement has been meticulously followed. The experts commissioning the project are the best judge to decide efficacy and suitability of land. PMRCL has conducted field survey and has identified the present chunk of land for establishment of depot and property development area. In exercise of writ jurisdiction, this Court may not substitute its views on persuasion of some of the objectors for the view taken by the experts. In every acquisition, people are likely to be affected. If the considerations, which have been highlighted by the petitioners, are factored in, no acquisition would be possible. While protecting the right of individual is an important facet, this Court may not outweigh individual rights in comparison to the overwhelming public interest.

ARGUMENTS ADVANCED ON BEHALF OF THE PMRCL

121. Mr. Lalit Kishore, learned Senior Counsel appearing on behalf of the respondent nos. 10 and 11 (PMRCL),



argued that the petitioners are assailing the shifting of the depot from one place to other, establishment of one depot instead of two depots, change of alignment etc. but no relief whatsoever with respect to aforesaid grievances have been sought for in the instant writ applications.

122. It is well settled that even though the power of the High Court, under Article 226 of the Constitution of India, is wide enough, where the Court can mold the relief, but, the Supreme Court, in the case of **Manohar Lal (dead) by LRS. v. Ugrasen (Dead) by LRS and Others**, reported in **2010 (11) SCC 557**, has held that the Court should not grant a relief not prayed for by the petitioner.

123. He further argued that as per the earlier detail project report, two depots were to be constructed, the North South Corridor, having the starting point at Patna Junction and terminating at New I.S.B.T. and depot was to be established at Ramchak Bairiya; whereas, the East and West Corridor having the starting point at Saguna More and terminating at Aitwarpur, where another depot was to be constructed.

124. The Council of Minister decided to entrust the construction of the project to DMRC on 04.09.2019 and accordingly on 25.09.2019, PMRCL and DMRC entered into an



agreement. Thereafter, DMRC made physical assessment of the detailed project report prepared by M/s Rail India Technical and Economic Service at ground level and made suggestions to change in the line alignment in order to save Kumhrar Archaeological sites, due to change of the alignment suggested by DMRC at certain points, the proximity, i.e. the distance between the two Corridors, came very close and as such it was suggested to inter link both Corridors at Khemnichak and in view of the aforesaid changes suggested by DMRC, instead of two depots, it was suggested to construct only one depot at the Inter-State Bus Terminal.

125. The above suggestions were sent to M/s Rail India Technical and Economic Service for appraisal. M/s Rail India Technical and Economic Service approved the same and thereafter the said revised detail project report was approved by the Cabinet on 17.03.2020 and subsequently the revised detail project report was also approved by the Government of India on 26.08.2022 and also approved by Japan International Corporation Agency. An agreement was entered into with aforesaid Japan International Credit Agency for grant of 60 per cent soft loan and the rest 40 per cent is to be borne by Government of India and State of Bihar in equal share of 20 per cent each.



126. Earlier the depot was to be constructed at Ramchak Bairiya, but it was ultimately found not suitable because of various drainage and another issues, and instead thereof, contiguous to the I.S.B.T. Metro Station, on the eastern side, the land at mauza Ranipur and Pahari was found more suitable and as such in the revised detail project report, construction of depot was earmarked at mauza Ranipur and Pahari.

127. The submission in respect of acquisition of land for property development area, learned Senior Counsel argued that in the order, dated 30.03.2009, issued by the Government of India, property development area is an integral part of the Metro project. The property development is for sustainability of the Metro Project and to make the Metro Project more financially viable and sustainable, it is necessary to develop certain area in order to generate revenue for the Metro Project.

128. As per Clauses 12.22 and Clause 12.24 of the Agreement between Government of India, Government of Bihar and PMRCL, dated 06.11.2019, it is stipulated that the Government of Bihar will make all endeavour for development of property development area by the PMRCL.

129. In view of the aforesaid facts and circumstances, acquisition of land for the purpose of property development, being



it not only an integral part of the Metro Project; rather, in absence thereof, the said project cannot financially sustain.

130. With regard to alternative sites, as argued by the petitioners, learned Senior Counsel argued that the petitioners have suggested three other alternative places for construction of depot instead of the present site, which are (i) Sahara Land, (ii) dumping yard and (iii) Abdullachak. These sites are not viable because the present depot is contiguous to the I.S.B.T. Metro Station. By producing a sketch map of the aforesaid area, it has been demonstrated that Abdullachak is located at a distance of about 2.96 Km, which will increase the cost of construction by Rs. 393.39 crores. Similarly, the other site, namely, Sahara Land is at a distance of 5.52 Km, which will incur additional cost of Rs. 733.62 crores and the third site suggested by the petitioners, i.e. dumping yard is at a distance of 1.64 Km, which will incur Additional cost of construction of Rs. 217.96 crores. Apart from the aforesaid additional cost towards construction of the depot, it will also increase the recurring operational costs because the train will have to cover the aforesaid extra distance without any passenger in order to reach the depot. As such, the aforesaid alternative sites are not viable and suitable in comparison to the site at which the depot is being constructed at present.



131. The Japan International Credit Agency, after minutely scrutinizing the revised detail project report and considering all aspects, has accepted the revised detail project report for both the Corridors at Phase 1 of PMRP.

132. This Court, on 19.7.2022, while directing the respondents to file counter affidavit, held that the aforesaid order (i.e. adjournment for filing counter affidavit) would not come in any way in the progress of the PMRP work and the project shall continue. The aforesaid order of this Court was assailed before the Supreme Court, vide SLP (C) No. 18118 of 2022) and the Supreme Court also not only dismissed the SLP preferred by the writ petitioners on 21.10.2022, but further held after that "we do not feel it appropriate to interfere with the impugned order which is an interim order".

133. In view of the aforesaid liberty granted to the PMRCL to go ahead with the construction of the project, the construction work of the project, including the construction of the depot, continued and is continuing and till date, more than Rs. 2,7,81/- crores have already been spent over the said project.

134. So far the issue regarding illegality or otherwise with respect to acquisition of the land in question is concerned, the same has been elaborately rebutted by an elaborate argument by



the learned Advocate General and the same is being adopted on behalf of respondent nos.10 and 11 also.

**REPLY OF THE PETITIONERS ON THE ARGUMENTS
ADVANCED ON BEHALF OF THE STATE AND THE
PMRCL**

135. In reply, learned Counsel for the petitioners argued that the learned Advocate General, appearing on behalf of the State, i.e. respondent nos. 5 and 6, has not dealt with any provisions of the law, as discussed in the writ applications and has also not denied any fact, as stated in the writ applications. Insofar as the decisions cited by him, including the decision, in the case of **Godrej and Boyce** (supra) is not applicable in the facts and circumstances of the present case inasmuch as in the aforesaid decision, paragraph 2 and 5 clearly spells out that the alternative lands suggested by the Godrej for construction of Bullet Train project from Ahmedabad to Mumbai and the proposal no. 2 has been accepted. The facts of the case of **Godrej and Boyce** (supra) is totally different inasmuch as the issue was with regards to maintainability, as to whether a party, who has already consented for giving up the land, can again agitate and challenge under 2013 Act, and the second issue was with regard to Section 25 of 2013 Act, in relation to the preparation of the award. Thus, under this



background, the decision, in the case of **Godrej and Boyce** (supra) is not applicable to the facts of the present case.

136. Another decision relied upon by learned Advocate General, in the case of **Ramniklal N. Bhutta** (supra), is not applicable and submits that there is a sea change from 1997 to 2012 and in the year the 2013 Act came into force. The intent of the Legislature is evident from the aims and objectives, which is a part of various decisions, hence no relevance can be made to the facts of the present case. In fact, the issue, in the case of **Ramniklal N. Bhutta** (supra), was of the year 1979, where notification under Section 4 was issued and in the year 1982, notification under Section 6 was issued and then this judgement was delivered in the year 1997.

137. In the case of **Union of India v. Chajju Ram (Dead) by LRS and Others**, reported in **(2003) 5 SCC 568**, the Constitution Bench of the Supreme Court has held that every case can differ from each other case and slight change/little difference in facts or addition to fact may led to different conclusion.

138. The decision cited by the State respondents, in the case of **Soora Ram Pratap Reddy** (supra), on the point that the Government is the best judge to decide what construes public purpose, is not applicable in this case.



139. Learned Counsel for the petitioners submits that there is no issue with regard to the public purpose. However, it is an admitted position that the PMRP is a public purpose project and the Writ Court need to intervene if the acquisition authority has not followed the statutory provisions and, therefore, the intervention of the Writ Court is warranted only if the due procedure has not been followed.

140. Another decision relied upon by the State respondents, in the case of **Nand Kishore Gupta** (supra), learned Counsel for the petitioners argued that this decision is also not applicable in the facts of the present writ applications inasmuch as in the present case, there is a clear violation of the statutory provisions of the 2013 Act.

141. In the case of **Ramji Veerji Patel** (supra) relied upon by the State respondents on alternative land, learned Counsel for the petitioners submits that the State Government considered the proposal of alternative land given by the petitioners, but found the same unsuitable. He further argued that this decision is also not applicable in the facts and circumstances of the present case on the ground that the decision in the case of **Ramji Veerji Patel** (supra) has different circumstances under which the Supreme Court has allowed the land acquisition by the authority on totally on distinct



ground, which can be inferred after reading paragraph 32 of **Ramji Veerji Patel** (supra).

142. In the present case, the proposal of alternative land has never been considered and no assessment has been done by any expert and proper evaluation has also not been made under Section 4 (4) (e) of the 2013 Act read with 2014 Rules.

143. The decision cited by the State respondents, in the case of **Eros City Developer Private Limited** (supra) is not applicable in the facts of the case in hand inasmuch as the case of **Eros City Developer Private Limited** (supra) relates to the old Act and objections, under Section 5-A, were duly considered; whereas in the cases in hand, the objections were not considered at all on the point of jurisdiction by the District Land Acquisition Officer, Patna, though he has all such rights under Section 15(1) (c) of the 2013 Act to decide the alternative sites.

144. In the case of **Eros City Developer Private Limited** (supra), the Supreme Court has held that the decision of the Government is not beyond the judicial scrutiny in cases of public purposes and public necessity.

145. The decision of **Dr. Abraham Patani of Mumbai** (supra) is also not applicable in the facts and circumstances of the present case inasmuch as the cited decision relates to a road for



which initial notification was issued in 1984, then re-alignment was done in the year 1992.

146. Rebutting the arguments advanced by learned Senior Counsel for the PMRCL, learned Counsel for the petitioners argued that it has been submitted regarding difficulties, which would be faced, if any three of the proposals are considered by the PMRCL. At this juncture, it is submitted that none of the proposals given by the petitioners, during the course of hearing of preparation of Social Impact Assessment report, under Section 4 (4) (e) of the 2013 Act, has been considered, which mandates for consideration of the alternative sites. At the same time, no consideration of the Section 5 of 2013 Act has been done. The PMRCL, in the supplementary counter affidavit, has stated such facts, but nothing has been stated with regards to the facts and figures on affidavit except by bringing one piece of map wherein three proposals has been stated.

147. Against the map submitted by the PMRCL regarding the alternative sites, the petitioners relied upon another map with regard to the alternative land at Ramchak Bairiya and submits that in Ramchak Bairiya, the displacement, as per Google Earth Map, would be agricultural lands, land owners having large



chunk of land, lesser families would be affected, 1300 families would be saved and drainage through nala is also available.

148. With regard to the Sahara land (proposal no. 2), it is argued that there will be no displacement of any family, drainage through nala is available and Rs. 759.66 crores would be saved and it will have 2-3 more stations which is likely to happen in near future as this land falls under Patna Nagar Parisad.

149. With regard to the third alternative site at Dumping Yard, it is argued that there will be no displacement of any family and as such, 1300 families would be saved from displacement, Rs. 790 crores would be saved, this site can help in the future expansion of land alignment, only 400 meters of extra line alignment is for existing project, that is why this small length cannot be considered and if it is considered, the same will cost only Rs. 53.16 crores and if this dumping yard is removed, the surrounding area will be saved from pollution.

150. Learned Counsel for the petitioners, referring to the map submitted by the PMRCL, argued that respondent nos. 10 and 11 have suggested in the map that the dumping yard will have to have radius of 300 meters, but if the radius is taken to be 130 meters, there would be no demolition of any house and it is a Government land of 85 acres. The respondents suggested that they



have to put in 217.96 crores and there would be demolition of 73 houses which is to be relocated, but the fact is that it is absolutely false, which would be evident from the map provided by the petitioners and there will be demolition of only one house. So far as the extra amount of 217.96 crores to be incurred by the respondents is concerned, it is argued that the State is willing to pay Rs. 790.90 crores for mauza Pahari and Ranipur and this amount of Rs. 790.90 crores is taken into consideration, still the Government would be saving Rs. 573 crores. Not only this, the Government will save about 1300 families from displacement. Apart from this, the vicinity of mauza Ramchak Bairiya has so much environmental issues, which would be cured and the entire surrounding, which is catering to the needs of about 2000 families, will be saved.

151. Even the alternative site, such as proposal No. 1, though incorrectly been given in the map and given by the PMRCL, the second map given by the petitioners, which is adjacent to Gyanasthali High School

152. So far as demolition of 200 houses, as given in the map at Abdullachak is concerned, it is absolutely baseless and false. The petitioners have never given any suggestions for the lands at Abdullachak; rather, it is the opposite side of the



Abdullachak near Gyanasthali High School. In fact, the families at mauza Ramchak Bairiya are willing to give their land near Gyanasthali High School.

153. Learned Counsel further argued that in a Public Interest Litigation, bearing CWJC No. 20570 of 2015, a Division bench of this Court, by order, dated 17.10.2023, directed the Municipal Commissioner to place on record the concrete proposals as to the separate site identified and also the processing of the waste in the present location. The Government was also directed to identify an alternate site, where the future dumping can be done. The Municipal Commissioner informed that there is a proposal to set up an Integrated Solid Waste Management Plant, which is pending before the Central Government for approval. The Central Government Counsel was directed to take instruction as to the stage of the approval which is pending before the Central Government. The State Government was directed to ensure the preparedness of the Police Department and the Fire Department to meet any adverse situation arising and to contain any fire mishap that may occur at the site.

154. There has been a request for acquiring the land in terms of the general procedure of the 2013 Act and not in accordance with Section 40 of the 2013 Act, which mandates for



compulsory emergency acquisition. Application for emergency acquisition was given by PMRCL, vide letter no. 723, dated 27.08.2020, but the District Land Acquisition Officer has consented for acquiring the land except for emergency acquisition. The Social Impact Assessment report was given on 01.06.2021 but there is no discussion with regard to property development area in the said hearing/notice.

155. The property development area for the PMRP, the DMRC has suggested for taking more land of the Government and thus under this background the land of Transport Nagar, which is shifting to some other location, is taken into consideration and then also, the alternative sites can be considered.

156. In the Master Plan 2030-31, at page No. 68, it would be evident that Ramchak Bairiya and Dumping Yard is commercial one type land and in 2030-31, they will be used as commercial land. The Government has 85 acres of land, which can be utilised for the purposes of construction of depot area.

157. Learned Counsel next argued that the entire project is to be completed by December, 2028, as per the press release, dated 29.03.2023, issued by the Japan International Credit Agency and the claim of the PMRCL that 42 per cent of the work has been completed is absolutely false and baseless, and only 5 per cent of



the work has been done, if photography is taken into consideration. There is no construction work done on the site except boundary and even that is also not complete. Even if 65 crores of investment has been made, then, if the project is shifted to some other place, there will be recovery of the invested amount, if at all paid to some other person for the respective land.

158. Even otherwise, the compensation amount, which has been paid, is much below and thus under this background, the people, who will have been paid will automatically be happy to return the said amount to the respective authorities. In fact, there are 1300 families, in number, and the amount which has been alleged to be accepted by them is very minimal, i.e. less than 5 per cent.

159. Altogether 188 petitioners have approached this Court and the people, who are approaching the Court, are representing 23.56 acres of land. The 63 petitioners, along with others, petitioners are having 2.6 acres of land. If the total petitioners are considered, then 1/3rd of the parties are before this Court.

CONSIDERATION

160. I have heard learned Counsel for the parties at length and have gone through the relevant materials on record.



161. Learned Counsel for the petitioners, during the course of arguments, challenged the acquisition of land done by the State Government and has mainly argued that (i) acquisition has been done in violation of provisions as contained in the 2013 Act and further without considering the proposal of rehabilitation and resettlement of the petitioners; (ii) the alternative sites suggested by the petitioners were not considered by the authorities; (iii) the component of property development area not being the public purpose and (iv) compensation paid is inadequate.

162. Mr. Sumeet Singh, learned Counsel for the petitioners, during the course of argument, has admitted that the PMRP is a public purpose project. However, his submission is that the Writ Court need to intervene if the acquisition authorities have not followed the statutory provisions of law. The PMRP is a mass rapid transit system, which is under construction in Patna, the capital of Bihar, by PMRCL, through Special Purpose Vehicle (SPV).

163. The PMRP shall be constructed in five phases and will be operated by State run PMRCL. The present case relates to Phase-1 of the PMRP, which consists of two corridors. The line of Corridor-1 (also known as 'East-West Corridor') will cover a



distance of 16.86 kms. from Danapur Cantonment to Khemnichak, and has 14 metro stations. The line of Corridor-2 (also known as 'North-South Corridor') will cover a distance of 14.05 kms. from Patna Junction to New I.S.B.T., and has 12 metro stations.

164. The acquisition of land has been done by the State authorities for the purpose of construction of depot and property development area, which is the subject matter of the present writ applications. The objective of the PMRP is to cope up with the increasing traffic demand in Patna, which will contribute to the improvement of the urban environment. Patna has a population of little over 2.5 million, making it eligible for metro services. The PMRP will contribute to the achievement of sustainable development goals. Altogether 11.2 Hectares of land have been acquired for the property development area and 19.2 Hectares of land has been acquired for the purpose of construction of depot.

165. On 25th September, 2018, the Government of Bihar approved the constitution of PMRCL as the Special Purpose Vehicle for construction of PMRP, which, in turn, appointed DMRC, as the general consultant to assist in the implementation of the PMRP. The PMRP received the approval of the Central Government on 06.02.2019 and in November, 2019, the DMRC



suggested a change in the detailed project report of the PMRP and line alignment of both the corridors.

166. In relation to the depot under the PMRP, initially there were two locations, the first one at mauza Aitwarpur and the second one at mauza Ramchak Bairiya, which has later been changed to only one location, at mauza Pahari and Ranipur, to which the petitioners belong. The estimated cost of construction of the depot is Rs. 143 crores.

167. The petitioner, in the present writ applications, have challenged the acquisition of the land in mauza Pahari and Ranipur, which is being acquired for the purpose of construction of depot and property development area. The total land required for the depot and the property development area is 76.6450, out of which, at mauza Pahari and Ranipur, 0.70 acres of land is of Government of Bihar and rest 75.95 acres of land has been acquired in mauza Pahari and Ranipur.

168. Regarding the challenge to the acquisition by the petitioners in violation of provisions of 2013 Act, it has been argued on behalf of the writ petitioners that the decision to change the depot from mauza Aitwarpur and Ramchak Bairiya to mauza Pahari and Ranipur has been taken in haste and that too, without the approval of the State Government. Further argument on behalf



of the writ petitioners is that the Social Impact Assessment Study/Report is bad in law as there is non-compliance of Section 4 of the 2013 Act read with Rules 5 to 10, under Chapter III, of 2014 Rules. There is no finding that the alternative lands have been considered and found not feasible. There is also no finding with regard to bare minimum land, which is required for the purpose of construction of depot. Section 5 of the 2013 Act was also not followed properly. The public hearing was fixed during COVID-2019 pandemic, which was prevailing in the entire country and less than 10 per cent of the affected families took part in the public hearing.

169. Rule 11 (3) of the 2014 Rules mandates that public hearing must be announced three weeks in advance through daily newspaper and clear 21 days' time was not given in the present case inasmuch as the public hearing was announced on 01.06.2021 and the hearing was conducted on 04.06.2021.

170. Section 6 of the 2013 Act has also not been followed as the Social Impact Assessment Report was not published in the affected area in such manner as prescribed and was not uploaded on the website of the State Government. The formation of the Technical Expert Committee, prescribed under Section 7 of the 2013 Act, read with Rule 13 of the 2014 Rules,



has also been violated inasmuch as Section 7 (2) (b) of the 2013 Act mandates two representatives of Panchayat, Gram Sabha/Municipal Corporation, as the case may be, but in the present case, there is sham compliance of this requirement and two persons, who were part of the Expert Committee, were representatives of different ward and both of them were not properly associated with the concerned Municipality and have written letters saying that their signatures have been taken on paper and they have not consented, being the members of the Expert Committee.

171. Learned Counsel has also argued that there was non-compliance of the procedure, as prescribed under Section 8 of the 2013 Act, which mandate that the decision of the appropriate Government shall be made available in the local language to the Panchayat, Municipality or Municipal Corporation, as the case may be, and also in the Office of the Collector, the Sub-Divisional Magistrate and the Tehsil, and shall be published in the affected areas in such manner, as the case may be, and uploaded on the website of the appropriate Government. The State Government has also not published the Social Impact Assessment Report in the affected areas in the manner as provided and also not uploaded the same on the website of the State Government.



172. Attacking on the notification under Section 11 (1) of the 2013 Act, learned Counsel submitted that it mandates that the notification is a preliminary notification and it has to contain the status of the public purpose involved, reasons necessitating displacement of affected person, summary of Social Impact Assessment Report and the particulars of the Administrator appointed for the purpose of rehabilitation and resettlement, under Section 43 of the 2013 Act, but in the present case, all these procedures were not followed and have, thus, been violated. There is no mentioning of the reasons for displacement of the affected families, there is no summary of the Social Impact Assessment Report and there is no particulars of the Administrator appointed under Section 43 of the 2013 Act. The said notification does not indicate as to how many families are going to be displaced; rather, in the opposite, it is stated that no family is going to be displaced.

173. The objections filed by the petitioners against the acquisition have also not been considered in accordance with law as contained in Section 15 of the 2013 Act and the petitioners' objections have perfunctorily been rejected in one line or three-four lines, and no objection has been dealt with separately. The District Land Acquisition Officer, Patna, has failed to give any finding with regard to the alternative land. The notification, under



Section 19 of the 2013 Act has not considered the mandatory provisions of law. There is no such report, which has been submitted under Section 19 (2) by the Collector, Patna, as mandated under Section 19 (1) of the 2013 Act. It is also mandated that under Section 15 (2) of the 2013 Act, the Collector has to submit a report along with the recommendations on the objections to the appropriate Government for decision. There is no such publication of summary of the rehabilitation and resettlement scheme along with the declaration referred to under Section 19 (1) of the 2013 Act.

174. The language used in the award will make it clear that it has been prepared in complete violation of Section 30 of the 2013 Act, which mandates that the Collector shall issue individual award, detailing the particulars of compensation payable as specified in the First Schedule.

175. Learned Counsel has argued that the property development area cannot be taken as an integral part of the PMRP.

176. These were precisely the grounds taken by the petitioners while challenging the acquisition of the land, in question.

177. On the point that no assessment was made by the respondents to consider the feasibility and need of new metro



depot at the new site and that the decision was taken in undue haste, learned Counsel for the petitioners has relied upon the decisions of the Supreme Court, in the cases of **Inderpreet Singh Kahlon** (supra) and **Bahadursinh Lakhubhai Gohil** (supra), in which the Supreme Court has held that the action taken in undue haste can be declared as bad in law.

178. He further relied on the case of **Manekbhen Rama Tandel** (supra), which says that summary of the Social Impact Assessment Report, if any, in the report under Section 8 cannot be termed as due compliance with the mandatory requirements of publication of the notification under Section 4 and publication of the Social Impact Assessment Report as contemplated under Section 6 of the 2013 Act.

179. He also relied on the decision of the Supreme Court, in the case of **Dev Sharan and Others** (supra) in which a question arose in relation to the action of the State as to whether it is justified for acquiring the land when alternative land is already available and further, in the case of **Kamal Trading Private Limited** (supra), the Supreme Court has dealt with the aspect as to whether if the objections are filed and not considered, then it would amount to non-application of mind and set aside the acquisition proceeding on this ground.



180. In the case of **Hindustan Petroleum Corpn. Limited** (supra), a question arose that whether judicial review can be done if there is any illegality, irrationality, and procedure impropriety is being found. In this case, the High Court has set aside the land acquisition proceeding, as objections were not considered.

181. In the case of **Surinder Singh Brar** (supra), relied upon by the petitioners, the Supreme Court, while examining the entire facts, has observed that the objections, though rejected by the District Land Acquisition Officer, but the District Land Acquisition Officer had not applied its mind to the objections of the land owners and merely created a facade of doing so.

182. On the point of deciding the objections, the petitioners have relied upon the decision, in the case of **Kedar Nath Yadav** (supra) and **Raghubir Singh Sehrawat** (supra). He also relied upon the decision of the Supreme Court, in the case of **Shiv Singh** (supra), in which public notice and non-compliance of Section 15 (2) of the 2013 Act has been dealt with. The Supreme Court has held that it is mandatory on the part of the Collector to comply with the procedure prescribed under Section 15 (2) of the 2013 Act so as to make the acquisition proceedings legal and in conformity with the provisions of the Act.



183. Learned Counsel for the petitioners has placed reliance on the decisions of the Supreme Court, in the cases of **Vidya Devi** (supra), **B. K. Ravichandra** (supra) and **D. B. Basnett** (supra) in support of the argument that the right to property ceased to be a fundamental right by the Constitution, however, it continued to be a human right and the State cannot dispossess a citizen of its property except in accordance with the procedure established by law. The obligation to pay compensation, though not expressly included in Article 300-A of the Constitution of India, can be inferred in that Article.

184. In **Vidya Devi** (supra), the Supreme Court has quoted its earlier decision, in the case of **Hindustan Petroleum Corpn. Limited** (supra), wherein it has been held that having regard to the provisions contained in Article 300-A of the Constitution, the State in exercise of its power of “eminent domain” may interfere with the right of property of a person by acquiring the same, but the same must be for a public purpose and reasonable compensation therefor must be paid.

185. The decision, in the case of **K. S. Puttaswamy** (supra) has also been relied upon for the purpose that right to shelter has been declared as fundamental right.



186. The argument advanced on behalf of the State respondents is that in the city of Patna, the only means of transport is either private transport or motorized road transport, which has led to congestion, unmanageable traffic on roads and long hours of traffic jam, leading to emission of carbon dioxide/carbon monoxide, causing air and sound pollution in the city. Most of the times, the 'air quality index' is extremely hazardous, causing serious health issues. The PMRP is an ambitious project in larger public interest and for convenience of general public at large. The PMRP will be efficient, economical and faster mode of public transport and shall look the increase in the population, the pressure of commuters and the same will also reduce the overall air pollution.

187. On the Social Impact Assessment Study/Report, it has been submitted that the Social impact Assessment Study was conducted by the Development Management Institute, Patna, in which 250 people as well as representatives of Ward No. 56 had participated. The Social Impact Assessment Report was submitted on 14.06.2021, before the Technical Expert Committee. In the Social Impact Assessment Report, the finding is that the positive impact of PMRP is higher than the negative impact. The Social Impact Assessment Report was examined by the Expert



Committee, which recommended for timely completion of the PMRP.

188. Upon the notification issued by the respondents, under Section 11 (1) of the 2013 Act, it has been submitted that 759 objections were submitted and after affording the opportunity of hearing to the objectors, the objections were duly considered and disposed of by the District Land Acquisition Officer, Patna, on 02.02.2022. After hearing all the objections and disposal of the same under Section 15 (2) of the 2013 Act, it has been sent to the Revenue and Land Reforms Department, Government of Bihar, Patna, and the same has been approved. Thereafter, the notification, under Section 19 of the 2013 Act was published on 11.05.2022 and award was, accordingly, prepared. Rs. 133.03 crores has already been disbursed in favour of the land owners, whose land has been acquired for the PMRP and physical possession of the entire acquired land, i.e. 75.96 acres of land was handed over to the PMRCL on 10.09.2022. The total expenditure incurred over construction of PMRP, till 30th September, 2023, is Rs. 2,781.83 crores, out of which Rs. 65 crores have been incurred over construction of depot. The physical completion of the depot is 44 per cent and financial completion of the depot is 42.5 per cent and the date of completion of the depot is August, 2025.



189. On property development area, it has been submitted by the State that in any Metro Rail project, its viability is not dependent only on fare recovered from commuters, but mostly depends upon Non-Fare Box Revenue. The metro rail must have component of commercial utilization of its property, including metro stations, depots etc. Everywhere in the World, including India, where metro rail project has been launched, it necessarily include the component of revenue generation from sources other than fare. The property development by the Metro Rail is one of the accepted modes of resource mobilization towards capital cost as well as sustainable operation. The Ministry of Urban Development, Government of India has issued letter, dated 30.03.2009, bearing K-14011/8/2000, stating therein that the property development is one of the ways of mobilizing resources for the project. Therefore, the word "Project" would also include "Property Development", as such the property development on the acquired land shall also be considered as part of the project. The property development area/Non-Fare Box Revenue has been considered and approved by the Japan International Credit Agency as well as the Government of India and the same is integral part of the metro rail project.



190. It has also been highlighted in the argument of the State that the line alignment of the North-South Corridor of Phase-1 of the PMRP was revisited in order to save historical and archaeological site at Kumhrar and large number of other structures and the line alignment has been changed on the suggestion of the DMRC. In course of execution, the project authorities realized that the line alignment needs to be changed and instead of two corridors, only one corridor, with interchangeability at Khemnichak, would serve the purpose. The construction of depot, at the present site, is also beneficial for seamless integration between the Inter-State Bus Terminal and I.S.B.T. Metro Station. The revised detail project report, having only one depot at mauza Pahari and Ranipur, got approved by the State Government on 17.03.2020 and the same has also been approved by the Japan International Credit Agency as well as the Government of India.

191. On the issue of availability of alternative land, as suggested by the petitioners, it has been submitted that the project cost will increase by approximately Rs. 500-700 crores, if the site suggested by the petitioners is selected for work of depot and property development area. The petitioners have further not shown any arbitrariness or unreasonableness in the selection of the land.



192. The respondent-State has relied upon the decision of the Supreme Court, in the case of **Nand Kishore Gupta** (supra). This case related to the construction of Yamuna Expressway and the acquisition of land was made along Yamuna Expressway for development of the same for commercial, amusement, industrial, institutional and residential purposes. The Supreme Court considered Section 3 of the Land Acquisition Act, 1894, which contains definition of ‘Public Purposes’ and observed that the Expressway is a work of immense public importance. The State gains advantages from the construction of an expressway and so does the general public. Creation of a corridor for fast-moving traffic resulting into curtailing the travelling time, as also the transport of the goods, would be some factors, which speak in favour of the Project being for the public purpose. The creation of the five zones for industry, residence, amusement, etc. would be complementary to the creation of the Expressway. The Supreme Court has further held that it cannot be forgotten that the creation of land parcels would give impetus to the State creating more jobs and helping the economy and thereby helping the general public. The creation of five parcels will certainly help the maximum utilization of the Expressway and the existence of an Expressway for the fast-moving traffic would help the industrial culture created



in the five parcels. Thus, both will be complimentary to each other and can be viewed as parts of an integral scheme. Therefore, it cannot be said that it is not a public purpose. Accordingly, the Supreme Court has held that the creation of five Zones for industry, amusement, residence etc. was made for public purpose.

193. In yet another decision cited by the State, in the case of **G. Narsing Rao** (supra), the Supreme Court has held that “it cannot be disputed that the public interest is the paramount consideration and the National Highway Authority can be said to be the best judge to decide which land to be acquired and which not to be acquired for the purpose of construction of the Highway and in that view of the matter, no interference is called for in exercise of powers under Article 136 of the Constitution of India”.

194. In yet another decision of the Supreme Court, in the case of **Ramji Veerji Patel** (supra), it has been held that if land proposed to be acquired and alternative land is suggested by the owners/persons interested are equally suitable for the purpose of which land is being acquired, the satisfaction of the Government, if not actuated with ulterior motive, must get primacy. It is not open to the Court to examine the aspect of suitability as a court of appeal and substitute its opinion.



195. In the case of **Ramnislal N. Bhutta** (supra), it has been held by the Supreme Court that the means of transportation, power and communications are in dire need of substantial improvement, expansion and modernization. These things very often call for acquisition of land and that too without any delay. It has further been held that whatever may have been the practices in the past, a time has come where the courts should keep the larger public interest in mind while exercising their power of granting stay/injunction. The power, under Article 226 of the Constitution of India, is discretionary and will be exercised in furtherance of interests of justice and not merely on the making out of a legal point. In the matter of land acquisition for public purposes, the interests of justice and the public interest coalesce. They are very often one and the same. The courts have to weigh the public interest vis-à-vis the private interest while exercising the power under Article 226 of the Constitution of India. It may even be open to the High Court to direct, in case it finds finally that the acquisition was vitiated on account of non-compliance with the legal requirement that the persons interested shall also be entitled to a particular amount of damages to be awarded as a lump sum or calculated at a certain percentage of compensation payable. There are many ways of affording appropriate relief and redressing a



wrong; quashing the acquisition proceedings is not the only mode of redress.

196. In the case of **Eros City Developers Private Limited** (supra), the Supreme Court has held that the Government is the best judge to decide as to whether the acquisition is for public purpose or not. The project for which land is acquired should be taken as a whole and must be judged whether it is in the larger public interest and it cannot be split into different components to consider whether each and every component will serve public purpose or not.

197. In **Dr. Abraham Patani of Mumbai** (supra), the Supreme Court has held that we must not lose sight of the fact that in several situations, the needs of the many must outweigh that of the few. We say so not with any fervour nor as a mantra, but as a solemn acknowledgment of the realities of modern life. Generally, the executive would be the best judge to determine whether or not the impugned purpose is a public purpose.

198. The respondent-State has also relied on a Division Bench decision of the Bombay High Court, in the case of **Godrej and Boyce Manufacturing Co. Ltd.** (supra), in which the Bombay High Court has dealt with the ambit and scope of the writ jurisdiction in matters where acquisition of land is for eminent



public purpose. Relying on the judgment of the Supreme Court, the Division Bench of the Bombay High Court has considered that even if there are any irregularities in the procedure followed by the acquiring authority for infrastructural project, whether Court can exercise its discretionary power under Article 226 of the Constitution of India and can interfere with the infrastructural project of public importance or that no interference is warranted since the petitioner should be compensated in terms of money by seeking enhancement of compensation under Section 64 of the 2013 Act. It has been held that in case of procedural difficulties, if any, in acquiring the property, it would at the most affect the quantum of compensation and not validity of acquisition. The powers of Court under Article 226 of the Constitution of India are discretionary and merely because there are certain alleged irregularities in the procedure required to be followed while acquiring the property, the Court cannot exercise discretionary power in view of the fact that the project being infrastructure and public project of national importance.

199. The said decision of the Bombay High Court was challenged before the Supreme Court, but the Supreme Court declined to interfere.



200. The argument of learned Counsel for the PMRCL is that the Property Development area is an integral part of any metro project. Property Development area is for sustainability of the metro project and to make the metro project viable financially and sustainable. It is necessary to develop certain area in order to generate revenue for the metro project. In absence of the Property Development area, the metro project cannot survive. The alternative sites suggested by the petitioners are also not viable because the present depot is contiguous to the proposed I.S.B.T. Metro Station and further if the project is shifted to any of the sites suggested by the petitioners, it would incur additional cost of Rs. 217-733 crores. Further, in view of the order, dated 19.07.2022, passed by this Court, and the SLP filed by the petitioners against the said order, having been dismissed by the Supreme Court, the construction work of the metro project, including the construction of depot, continued and is continuing till date and more than Rs. 2781/- crores have been spent over the entire PMRP, including Rs. 65 crores in the construction of depot, i.e. 42.5 per cent financial work of the construction of the depot has been completed and 44 per cent of the physical progress have been made in the construction and Rs. 125 crores has been paid as compensation of the land/houses of the land/house owners.



201. After having heard learned Counsel for the parties concerned and upon consideration of their arguments, following questions emerge for considerations before this Court:

(a) Whether the provisions of the 2013 Act have been followed for acquiring the land, in question?

(b) Scope of rehabilitation and resettlement, if any

(c) Whether the property development area and the depot area are integral part of the PMRP?

(d) Whether the PMRP, including the property development area, is a project of larger public interest?

202. The submissions of the petitioners regarding public hearing during the course of preparation of Social Impact Assessment Report, as mandated under Section 5 of the 2013 Act read with Rule 11 (3) of the 2014 Rules is concerned, emphasis has been given by learned Counsel that clear three weeks' notice was not given and the notice regarding public hearing was published on 01.06.2021 and the public hearing was conducted on 04.06.2021.

203. While preparing Social Impact Assessment Report, the alternative lands suggested by the petitioners/objectors, as required under Section 4 (4) (e) of the 2013 Act read with Rule 10 (3) of the 2014 Rules, including the requirement of bare minimum



land have also not been considered. Further, the argument that Social Impact Assessment Report was not published in the affected area in the manner prescribed under Section 11 of the 2013 Act and not uploaded on the website of the Government.

204. From the materials produced by the parties, it transpires that in the public hearing, during the course of preparation of Social impact Assessment Report by the Development Management Institute, Patna, 111 persons participated and according to the State, 250 people as well as representatives of Ward No. 56 had participated. The Social impact Assessment Report was submitted on 14.06.2021, saying that the positive impact is higher than the negative impact and the Government should take prompt action so that the benefits of the project should reach to the public.

205. The contention of the petitioners that 21 days' notice, as required under Rule 11 (3) of the 2014 Rules, appears to be correct, but upon consideration of the entire facts, during the preparation of the Social impact Assessment Report, it appears that there was substantial compliance of these provisions, except some procedural lapses here and there.

206. On the point of non-consideration of alternative sites suggested by the petitioners, it is the case of the State that



alternative sites are not suitable and shall incur extra cost, ranging between 500 and 700 crores. Further, the construction work has started on the present site and substantial construction, to the extent of 44 per cent, has been done on the land, in question. Majority of the land owners have received compensation to the tune of Rs. 130 crores. The suitability of the land is domain of the acquiring agency and the agency, which is executing the metro rail project. The respondent-State and its agency are the best judge to decide the suitability and feasibility of the project.

207. The Supreme Court, in the cases of **Ramji Veerji Patel** (supra) and **G. Narsing Rao** (supra), has held that authority is the best judge to decide which land is required to be acquired for the purpose of construction of public project for public purpose. The satisfaction of the Government, if not actuated with ulterior motive, must get primacy. It is not open to the Court to examine the aspect of suitability as a court of appeal and substitute its opinion.

208. Accordingly, I am of the view that non-consideration of the proposal of the petitioners regarding alternative sites by the State Government in the facts and circumstances of the present case does not vitiate the acquisition, in question.



209. From the contention of the petitioners regarding formation of the Expert Committee for appraisal of Social Impact Assessment Report, as mandated under Section 7 (2) (b) of the 2013 Act, which requires two representatives of Panchayat, Gram Sabha, Municipality or Municipal Corporation, as the case may be, it appears that the two representatives of Gram Panchayat, who were inducted as Members of the Expert Committee, were not the representatives of the area, but were representatives of other Wards. But the fact of the matter is that detailed deliberations were done on the Social Impact Assessment Report by the Expert Committee, in which the specialized persons were members and has made certain recommendations to the State Government regarding the acquisition of the land for the construction of depot and Property Development Area, which would be evident from the report of the Expert Committee (Annexure 18). At page 190 of CWJC No. 4562 of 2022, the recommendation of the Expert Committee are as follows:

(1) It is recommended that in view of the present-day economic usefulness of the land being acquired, the appropriate authority may consider updation of land classification and bring parity in the land rates in the area. To make the compensation amount more relevant, it is suggested that all the plots being



required for the project may be given a minimum classification of developing land' (Vikas-sheel Bhoomi) and above for the purpose of compensation fixation. The compensation may be paid as per the provisions of the 2013 Act, and 2014 Rules.

(2) Some raiyats will lose their residential/commercial structures due to this acquisition. It is suggested that in accordance with the Section 29 (1) of the 2013 Act, the value of the attached property may be determined for proper compensation. As an ameliorative measure, the competent authority may consider arrangement of credit support for such people to reorganize their business.

(3) The competent authority may, after proper verification, determine compensation for standing crops and other immovable properties as per Section 29 of 2013 Act.

(4) For rehabilitation and resettlement purpose, the requiring body and the competent authority may consider utilizing the government land in the vicinity.

(5) As regards demand for jobs, decision may be taken by the requiring body in accordance with the rules and provisions of PMRCL.

(6) It is suggested that a grievance redressal mechanism should be established to receive and mitigate the concerns and



complaints. Also, some NGOs or external monitoring agencies may be engaged to assist in the implementation and monitoring of the Rehabilitation and Resettlement Plan.

(7) To conclude the potential benefits of this project outweighs the social cost and adverse social impacts. This project is expected to bring multiple socio-economic benefits for the residents of Patna and adjoining areas. Hence, the expert committee recommends proposed land acquisition for timely completion of the Project.

210. During the course of argument, learned Advocate General has categorically submitted that rehabilitation and resettlement proposal of the Expert Committee was not considered by the State Government. Thus, it is clear that the recommendations of the Expert Committee were not considered at the level of State Government.

211. With regard to the contention of the petitioners that the decision to change two depots to one depot to be constructed at the present site was taken in haste is concerned, the respondents-State has submitted that the construction of metro depot from two locations to one location has been done due to technical reasons on the basis of the suggestion given by the DMRC, which has been approved by M/s Rail India Technical and Economic Service. The



present site has been suggested as most suitable site for the purpose of construction of depot. As per the revised detail project report, the total cost of construction of PMRP is reduced to Rs. 13365 crores from Rs. 17887.56 crores. Further, the location has been changed from the earlier site to the present site at mauza Pahari and Ranipur due to change in line alignment in order to save historical places, at Kumhrar, including the archaeological complexes. The revised detail project report prepared by M/s Rail India Technical and Economic Service has been approved by the State Government, Central Government as well as Japan International Credit Agency. Therefore, it appears that at various stages, the deliberations and decisions have been taken by the State Government, Central Government, executing agency as well as financing agency. Thus, it cannot be said that decision to change the site and to construct only one depot instead of two depots was taken in haste. It is not the case of the petitioners that this decision was taken by the respondent authorities with ulterior motive or with any mala fide intention. As such, I do not find any force in this argument advanced by the petitioners.

212. On the point that whether this PMRP is a public project of larger public importance, Mr. Sumeet Singh, submits that PMRP is a public purpose project, however, Mr. Basant



Kumar Chaudhary, learned Senior Counsel, appearing for the petitioners, in CWJC No. 7650 of 2022, argued that even though it is accepted that PMRP is a public purpose project, but the Property Development Area, by no stretch of imagination, can be said to be a project of public purpose. The State has no role to indulge in profiteering by constructing malls, cinema halls near metro stations/depot. In this regard, the argument advanced by the State is that the Property Development Area is an integral part of any metro project and in any metro rail project, its viability is not dependent upon fare recovered from the commuters and its viability also depends upon Non-Fare Box Revenue. The metro rail must have component of commercial utilization of its property, including metro stations, depots etc. Everywhere in the world, including India, where metro rail project has been launched, it necessarily includes components of revenue to be generated from sources other than fare. The property development by the Metro Rail is one of the accepted modes of resource mobilization towards capital cost as well as sustainable operation. The property development by Metro Projects is in line with the global example as Metros are highly capital intensive projects and the only way they can remain financially healthy, without government subsidy, is to increase the non-operational revenue, i.e. revenue from



advertisement, retailing, real estate, parking lot etc., as in the case of Hong Kong and other international Metros is done.

213. The Supreme Court, in the case of **Nand Kishore Gupta** (supra), which was related to the construction of Yamuna Expressway, where the acquisition of land was made along Yamuna Expressway for development of the same for commercial, amusement, industrial, institutional and residential purposes. The Supreme Court considered the definition of ‘Public Purposes’ and held that the creation of a corridor for fast-moving traffic resulting into curtailing the travelling time, as also the transport of the goods, would be some factors, which speak in favour of the Project being for the public purpose. It has also been held that the creation of the five zones for industry, residence, amusement, etc. would be complementary to the creation of the Expressway. Both, the Expressway and the five zone, along with the Expressway, is complimentary to each other and can be viewed as parts of an integral scheme. Therefore, it cannot be said that it is not a public purpose. The Supreme Court has held that the creation of five zones was made for public purpose.

214. The Metro Rail Policy, 2017, also contemplates provisions for enhancement of revenue of the metro rail projects and include commercial/property development at stations and on



other urban land can be used as a key instrument for maximizing revenues in metro rail/railway systems in cities. This system is being used in the cities around the world, including Hong Kong and Tokyo. The metro rail implementing agencies should endeavor to maximize revenue through commercial development at stations and on land allocated for this purpose. The detail project report should also mandatorily contain a chapter on enhancing non-fare box revenue through conventional as well as innovative means. Accordingly, in the present case also, the respondent-State while constructing the metro rail project system in Patna have taken into account the factors, which may increase the Non-Fare Box Revenue in line with the Metro Rail Policy, 2017, and has decided to construct the Property Development area, which, in my opinion, would be a part of the public purpose inasmuch as metro rail project and the Property Development Area are complimentary to each other and can be said to be a part of an integral scheme of the PMRP.

215. Thus, the argument of Mr. Choudhary, that the Property Development Area is not for public purpose under the PMRP does not have any force and it cannot be said that it is not for public purpose and the integral part of any metro rail project.



216. On the point of objections having not been considered by the Collector/District Land Acquisition Officer, Patna, after publication of the notification, under Section 11 (1) of the 2013 Act, the petitioners have submitted that objections, under Section 15 of the 2013 Act filed by the petitioners have perfunctorily been rejected by the District Land Acquisition Officer, Patna, and the objections have not been dealt with separately, including the availability of alternative sites. Learned Advocate General submitted that altogether 759 objections were submitted and after affording the opportunity of hearing to all the objectors, all the objections were duly considered and disposed of by the District Land Acquisition Officer, Patna,. Out of 759 objections, 221 objections were with regard to publication of their names, which were accordingly published; 531 objections were with regard to not giving their land, which did not come under the purview of objections; and remaining 7 objections were with regard to making payment of compensation as per commercial value or giving job.

217. Thus, I find that objections were invited and considered by the Collector/District Land Acquisition Officer, Patna, under the 2013 Act, since the present project is of larger public importance, some discrepancies in the process of disposal



of objections shall not render the entire acquisition as invalid. The petitioner may be entitled for just and fair compensation and the benefit of rehabilitation and resettlement prescribed under the Statute.

CONCLUSION

218. Upon consideration of the arguments advanced by the parties, discussion held, findings arrived herein above, in my considered opinion, it would not be in the interest of public at large to interfere with the acquisition of the subject land. Accordingly, writ applications, seeking quashing of the acquisition notice, are dismissed.

219. During the preparation of Social Impact Assessment Report, majority of the land owners have demanded just and fair compensation based upon the revised M.V.R. and rehabilitation, job in lieu of acquisition of their land.

220. The possession of the entire acquired land, at mauza Pahari and Ranipur, has already been taken by the State and handed over to the PMRCL, upon which the PMRCL has started construction of the depot and about 45 per cent of the construction work of depot has been completed and around Rs. 130 crores have already been disbursed towards the compensation to the land owners.



221. The whole scheme has progressed to a substantial level wherefrom it would be extremely difficult now to return back and quash the entire acquisition proceeding. Interference, at this stage, would mean impeding or bringing at halt the infrastructural development of the City of Patna in the shape of metro rail, which is of immense public importance for the benefit of about 22.5 millions residents of Patna and other persons visiting the State capital of Bihar.

222. It is well settled law that in judicial review, it is not open to the Court to examine the aspect of suitability of land as a court of appeal and substitute its opinion. In the present case, the PMRCL has found the land, in question, more suitable for construction of depot under the PMRP at mauza Pahari and Ranipur and has also given reasons as to why the land, in question, has been selected to be most suitable for the purpose of construction of depot and Property Development Area. The courts have to weigh the overwhelming public interest vis-à-vis the private interest while exercising the power under Article 226 of the Constitution of India.

223. In the case of **Godrej and Boyce** (supra), the Bombay High Court has dealt with the ambit and scope of the writ jurisdiction in the matter of acquisition of land for eminent public



purpose. The Bombay High Court has considered that even if there are any irregularities in the procedure followed by the acquiring authority for infrastructural project, the Court, in exercise of its discretionary power under Article 226 of the Constitution of India, may not interfere with the project of public importance. The powers of the Court, under Article 226 of the Constitution of India, are discretionary and merely because there are certain alleged irregularities in the procedure required to be followed while acquiring the property, the Court cannot exercise discretionary power in view of the fact that the project being infrastructural and public project of national importance.

224. In the case of **Ramnislal N. Bhutta** (supra), the Supreme Court has held that the power, under Article 226 of the Constitution of India, is discretionary and the same will be exercised in furtherance of interest of justice and not merely on the making out a legal point. In the matter of land acquisition for public purposes, the interest of justice and the public interest intermingle. It may even be open to the High Court to direct, in case it finds finally that the acquisition was vitiated on account of non-compliance with some legal requirement, that the persons interested shall also be entitled to a particular amount of damages to be awarded as a lump sum or calculated at a certain percentage



of compensation payable. There are many ways of affording appropriate relief and redressing a wrong; quashing the acquisition proceeding is not the only mode of redress, which is ultimately a matter of balancing the competing interest beyond this, which is neither visible nor advisable to say.

225. In the present acquisition process, certain provisions of the 2013 Act as well as 2014 Rules were not followed and there appears to be procedural lapses at the stage of preparation of Social Impact Assessment Report, formation of Expert Committee and non-consideration of the recommendations of the Expert Committee by the Government.

226. I have already held herein above that since this project is a public project, certain procedural infirmities shall not render the entire acquisition process as invalid. However, upon balancing the public interest vis-a-vis the interest of land/house owners, who have lost their entire land, including houses and some business establishments, the interest of justice demands that just, fair and adequate compensation be paid to the land/house owners, including their rehabilitation and resettlement, as prescribed under the Scheme of the 2013 Act and also recommended by the Expert Committee.



227. From the records of these cases, it appears that the lands have been acquired at two mauza, i.e. Pahari and Ranipur, For mauza Ranipur, the rate of the lands fixed by the State Government is less than the rate fixed for the land of mauza Pahari. Since the lands have been acquired in both the mauza, i.e. Pahari and Ranipur, for one project, therefore, on the principle of one project one compensation, the lands owners of mauza Ranipur are entitled to get equal compensation at the same rate, which has been given to the land owners of mauza Pahari. Both the lands are situated adjacent to each other.

228. The question, which, now, requires consideration is as to how to ascertain the just and fair compensation, which the petitioners and others are entitled and at the same time, the Court must balance the State exchequer by not awarding any amount, which may be in excess so that not to put additional burden on the State entity.

229. The price of the land in Patna has skyrocketed and increased manifold, but the M.V.R./circle rate of the area has not been revised for many years. The Court has been informed that the compensation has been fixed on the M.V.R./circle rate prevalent in the year 2014.



230. The M.V.R./circle rate is provided for the purpose of payment of stamp duty, but that cannot be made a basis to determine the actual price of the market value of the property. The purchasers, while purchasing the land, in the sale deed, quote the consideration amount on the basis of the M.V.R./circle rate and not the actual price paid for the purchase of the land.

231. Accordingly, in my considered opinion, let the M.V.R./circle rate, which has not been revised since long by the Collector, be revised by taking into consideration the relevant factors, including the opinion of the Expert. The concerned respondents are further directed to re-fix the compensation amount, payable to the petitioners, based upon the revised M.V.R./circle rate.

232. It has also been found that recommendations of the Expert Committee, as quoted herein above, have not been considered by the State Government, including the recommendation of the Expert Committee on the point of rehabilitation and resettlement, accordingly, I direct the State Government and the Collector, Patna, to consider the recommendation of the Expert Committee, and to take decision on the point of rehabilitation and resettlement of the land/house losers, as per Section 31 of the 2013 Act.



233. The aforesaid exercises must be completed by the respondents within the maximum period of six months from today.

234. With the aforesaid observations and directions, these writ applications are partly allowed, to the extent indicated above.

235. All the interlocutory applications, filed in this batch of writ applications, are also disposed accordingly.

236. There shall be no order as to costs.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

AFR/NAFR	AFR
CAV DATE	16.10.2023
Uploading Date	21-12-2023
Transmission Date	N/A

