

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.8640 of 2020**

---

1. Bishundeo Prasad Yadav S/o Late Prabhu Gop, R/o of Vill-Nakatpura, P.O.-Muraura, P.S.-Biharsarif, District-Nalanda.
2. Chandrika Prasad S/o Late Bisheswar Prasad R/o of Vill-Nakatpura, P.O.-Muraura, P.S.-Biharsarif, District-Nalanda.
3. Ramkeswar Prasad S/o Hari Gop, R/o of Vill-Nakatpura, P.O.-Muraura, P.S.-Biharsarif, District-Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Bihar, Patna.
2. Union of India through Director National Highway Authority of India (NHAF, Bihar Unit, Patna.
3. The Commissioner, Patna Commissioner, Patna.
4. The District Magistrate, Nalanda at Biharsarif, District-Nalanda.
5. The Additional Collector-Cum-Public Grievance Cell Nalanda at Biharsarif, District-Nalanda.
6. Circle Officer, Nalanda at Biharsarif, District-Nalanda.
7. Land Equisition Officers, Nalanda at Biharsarif, District-Nalanda.
8. Project Director Unit of National Highway Authority of India (NHAI) D-63, Krishnapuri, Patna.
9. Exceutive Engineer, National Highway Authority of India (NHAI), Division (Pramandal)-2, Mohalla-Vaishashur, Old Ranchi Riroad, Post-Biharsarif, P.S.-Laheer, District-Nalanda.
10. Manager, G.R Infrastructure Project Ltd. Situated at Office-Hargawan, Post-Gilani, P.S.-Sare, District-Nalanda.

... .. Respondent/s

---

**Appearance :**

For the Petitioner/s : Mr.Ranvijay Singh  
For the Respondent/s : Mr.Lalit Kishore ( Ag )

---

**CORAM: HONOURABLE MR. JUSTICE RAJIV ROY**  
**ORAL JUDGMENT**

**Date : 14-05-2024**

Heard Mr. Manoj Kumar, learned counsel for the  
petitioners, Mr. Mukul Prasad, representing the State and Dr.  
Anand Kumar for the National Highways Authority of India



(henceforth for short ‘ the N.H.A.I.’).

1. *The petitioners crave indulgence through an appropriate writ or writs commanding and directing respondent authorities for Relief/ Reliefs as prayed:-*

*a. For that through an appropriate writ or writs commanding and directing to the respondent to restore the possession of the petitioner of the some portion of land bearing Khata No.-67, 49, Khesra No.-477, 474, Thana No.-165 Area near about 15 decimal which is illegally been acquired/encroach by the respondents without following the due process of law, during the construction of road by the respondents of NH-82, at Nakatpura, under which petitioner become aggrieved.*

*b. For that further direction may be given to provide the reasonable compensation and litigation costs, to the petitioners who is fully entitled in accordance of law as against the act of respondents who has not taken any*



*step with regard to properties of petitioners acquired/ encroached by the respondents by way of illegality in malafide, arbitrary and whimsical manner, under which suffers for their no fault.*

*c. For that further direction may be given to take proper steps against the respondents, So concerned proper fair illegally been inquiry, by who has acquired/encroached the property of the petitioner under which they suffers from mental agoni and irreparable loss of prestige property.*

*d. For that any other relief/reliefs may be given to the petitioners which your lordships may deem fit and proper in the interest justice to the petitioners.*

2. Learned counsel for the petitioners submit that they are having land under Thana No. 165, Khata No. 67, Khesara No. 477 as also Khata No. 49, Khesara No. 474 which was taken by 'the N.H.A.I.' in the year 2013 for the widening of the National Highway 82 but without resorting to the acquisition process and/or making any payment after putting them on



notice.

3. After running from pillar to post and left with no alternative, the present writ petition was filed seven years later in the year 2020. The first positive order came to be passed by a coordinate Bench on 21.06.2022 which read as follows:-

*Heard the parties.*

*Mr. Raj Kishore Roy, learned G.P.-18 files hard copy of the counter affidavit and Mr. Anand Kumar, learned counsel appearing on behalf of the NHAI also files copy of the counter affidavit.*

*It has been submitted by Mr. Raj Kishore Roy that the State has written to NHAI for payment of compensation to the ce 19 petitioner. However, learned counsel for the NHAI submits that he has no instruction on the issue.*

*Learned counsel for the NHAI is directed to take instruction from the NHAI and come back to this Court on 27.06.2022 with specific pleadings whether NHAI is ready to pay the compensation or not.*



*Put up this case on 27.06.2022.*

4. The matter was again taken up a week later on 27.06.2022 and taking into account the assertive stand of the petitioners that their land has been taken for construction of road while 'the N.H.A.I.' is denying the same, the coordinate Bench directed both 'the N.H.A.I.' and the District Magistrate, Nalanda to visit the spot and verify whether any construction has been made on his land or not and in case, it has been constructed, for the payment of compensation.

5. Affidavits thereafter came to be filed by the respondents and on 23.08.2022, the coordinate Bench recorded the following order:-

*Heard the parties.*

*The respondents will file their Supplementary Counter Affidavit with regard to the Supplementary Affidavit filed today.*

*It has been contended by the learned counsel for the petitioner that initially, by letter dated 29.07.2022, the authorities had offered Rs. 684697/- to the petitioner. Thereafter, vide order dated 01.03.2022, they had offered Rs. 1092710/-.*



*The respondents have lot of explanation to make in light of the Supplementary Affidavit.*

*If the respondents are not able to explain the letters in question, this court will direct for the personal appearance of the District Magistrate, Nalanda, District Land Officer, Nalanda and Project Director, N.H.A.I. concerned.*

*If the Supplementary Counter Affidavit is not filed on or before the next date of hearing, the District Magistrate, Nalanda and Project Director, N.H.A.I. concerned shall appear in person.*

*Let this order be communicated to the Collector, Nalanda through FAX and E-Mail.*

*This order has been passed in the presence of the Advocate for the State and N.H.A.I.*

*Put up this case after two weeks.*

6. The matter remained pending and is now taken up for final adjudication.

7. Learned counsel for the petitioners submit that from complete denial for almost nine years, it was only on the



direction of the Patna High Court that finally they conceded of using the land of the petitioners for widening of the road. He has taken this Court to the first counter affidavit of the respondent nos. 2 and 8, 'the N.H.A.I.' which was filed on 17.03.2021 duly signed by its Project Director, PIU – Patna – 2. Paragraph 13 read as follows:-

*13. That as per the feasibility report submitted by the DPR consultant, at this location, 2 lane with paved shoulder work was to be done on the existing alignment and therefore land acquisition was not required this at location. Thus, Construction of highway work was done on the existing road and no additional land was used for the two lane with paved shoulder work at this location.*

8. Similar was the view of the State when they first filed their counter affidavit on 17.12.2021 vetted by the Collector, Nalanda and put on affidavit by the Circle Officer, Biharsarif and paragraph 5 read as follows:-

*5. That the facts in brief as indicated in the present writ petition is that the petitioners*



*are making claim /objection that a portion of their land bearing Khata no. 67, 49, Khesra no. 477, 474 under Thana no. 165 adjacent to NH-82 has been utilized by the respondents in the project relating to extension/widening of NH- 82 near village- Nakatpura. However, the fact remains that lands in question were not entered in requisition bearing letter no. 934, dated 12.08.2013 issued by the requisitioning authority of NHAI as well as letter no. 1291, dated 20.02.2017 and letter no. 1432 dated 03.04.2017 issued by the Project Director, NHAI.*

9. Learned counsel for the petitioners submit that subsequently after the inspection, they realized their mistake, changed track and now have come down to compensation. He has taken this Court to the third supplementary counter affidavit filed on 06.09.2022 by 'the N.H.A.I.' again signed by the Project Director, PIU – Patna -2 of 'the N.H.A.I.' and paragraph 7 read as follows:-

*7. That Land Owners were requested vide*



*letter no. NHAI/PIU/Patna-II/Court case/1796 dated 29.07.2022 to express their consent for providing the land on mutual consent basis, SO that the compensation could be paid within the timeline mentioned in the Hon'ble Court's order dated 18.07.2022. Officials of NHAI went to the land owners with the above letter and requested them to provide their consent at the rate/compensation finalised by CALA cum DLAO vide letter no 1728 dated 03.08.2022. However, The land owners could not provide consent for providing the land on mutual consent basis at the rate/ Compensation finalized by CALA cum DLAO, Nalanda letter no. 1728 dated 03.08.2022.*

10. The State-respondents (respondents 4 and 7) are now dancing to the same tune and paragraphs 7 to 9 read as follows:-

*7. That the Project Director NHAI, Patna vide letter no. 1796 dt. 29- 07-2022*



*requested to the petitioner and other landlords to give their mutual consent to register their lands in favour of the Govt. of India. The compensation was calculated vide letter no. 1440/RA dated 13-11-2014 on the basis of "Bihar Raiyati Bhoomi Lease Niti 2014". In the case of Mutual consent the amount of compensation was calculated in the ratio of MVR x4 (factor) and accordingly the purposed amount of Rs. 1092710/- fixed in the rate of land as per MVR @ Rs. 21000 per decimal and in the said amount, interest of two months from the date of order of this Hon'ble court and other benefits were also included.*

*8. That though the petitioner was noticed u/s 3E of the N.H. Act, 1956 to receive the amount of compensation, but in spite of knowledge, none came forward to receive the said amount of compensation. In the meantime letter no. 1796 dt. 29-07-2022 issued by the project Director, NHAI, Patna*



*addressed to the petitioner and other landlords, which was received in the office of the answering respondents on 01-08-2022, whereby the answering respondents were requested to acquire the land of the petitioner after taking mutual consent and on the basis of payment of compensation to them at the rate fixed earlier for payment of other landlords, whose lands were acquired in the same project.*

*9. That earlier vide letter no. 1832 dt. 17-08-2022, the Project Director, NHAI, Patna gave consent to make payment of the compensation amount to the petitioner worth Rs. 684697/- from the contingencies fund and therefore notices were issued to the petitioner and other landlords for receiving the said amount.*

11. Learned counsel for the State submits that ‘the N.H.A.I.’ has consented and has offered the amount along with interest to the petitioners in the light of the Resolution of the Land Acquisition Directorate issued by its Principal Secretary



vide Memo No. 1440 dated 13.11.2024 relating to Bihar Raiyati Land Lease Policy, 2014 and paragraph 3 read as follows:-

3. सतत लीज पर भूमि, ग्रामीण क्षेत्रों में न्यूनतम बाजार दर (MVR) के 4 (चार) गुणी एवं शहरी क्षेत्रों में 2 (दो) गुणी दर पर प्राप्त की जाएगी परन्तु यदि उक्त भूमि पर अवस्थित वृक्ष अथवा अन्य संरचनाएँ (Structures) हों तो जिला समाहर्ता कमश: जिला वन पदाधिकारी एवं कार्यपालक अभियंता भवन निर्माण विभाग से उनका मूल्यांकन करवाकर मूल्यांकित राशि का भी भुगतान करेंगे।

12. This Court requested learned G.P.-14, Mr. Dhurjati Kumar Prasad to assist in the matter and he submits that now that the amount has been decided, the petitioners can approach and take the same.

13. Dr. Anand Kumar, learned counsel appearing on behalf of 'the N.H.A.I.' submits that it has been found that some land of the petitioners have been taken for construction, amount decided and it is for them to collect the same.

14. The submissions put forward by the the State as also 'the N.H.A.I.' clearly show the way the citizen of the country is/are being treated. The lands of the petitioners were taken for the widening of the road/N.H-82, they kept on agitating the matter before all the respondent authorities



claiming that their lands have been taken, the same was rejected with contempt inasmuch as even after filing of the writ petition in the year 2020, they were brave enough to file their respective affidavits stating that no such land of the petitioners have ever been taken.

15. It was only after the direction of the High Court to both 'the N.H.A.I.' and the Collector, Nalanda to visit the spot and see for themselves whether the lands of the petitioners have been taken for construction or not, they change their track, accepted the contention of the petitioners and came out with the offer.

16. In that background, when they have shown their might to the ordinary person and it was only because of the intervention of the High Court that they relented, the question is whether the petitioners are entitled for cost or not.

17. So far as the compensation part is concerned, learned GP-14 has taken this Court to the Resolution of the Land Acquisition Directorate of the year 2014 and has submitted that it has been calculated strictly on the basis of said direction and submitted that the petitioners are well-advised to collect the same and will have the liberty to agitate, if they are dissatisfied even thereafter.



18. This Court thus directs the petitioners to individually approach along with all the documents to satisfy the authority and the amount shall be paid along with 9% interest from the date this order is passed till the actual payment is made.

19. So far as the cost part is concerned, learned G.P.-14, Mr. Dhurjati Kumar Prasad has submitted that only due to the fact that in the gazette notification, the lands of the petitioners were missing, the authorities remained under the impression that their land has not been taken. Subsequently, after the inspection took place, they realized the mistake that took place in the gazette notification.

20. Learned counsel for the N.H.A.I. tried to impress upon this Court by showing paragraphs 12 to 14 to submit that it was because of the fault of the competent authority in not clarifying the matter that they were under the impression that the lands of the petitioners have not been used for the widening of road. He further submits that it is completely the fault on behalf of the State-respondent which led to this confusion for nine long years and they erroneously file the first affidavit denying the acquisition of the land. He however, failed to answer how 'the N.H.A.I.' in its earlier affidavit made



assertion in para 13 that only two lane road was constructed on the existing alignment and therefore land acquisition was not required at this location. It was further asserted in the said counter affidavit by 'the N.H.A.I.' that the construction of the highway work was done on the existing road. This assertion made in the earlier counter affidavit completely belies his submission put forward how that due to the competent authority's fault, they made the mistake.

21. In that background, for the harassment to the petitioners for a decade, both mentally as well as physically beside the economic loss, in the opinion of this Court, both the State and 'the N.H.A.I.' will have to face the music.

22. Accordingly, the respondent no. 4, the District Magistrate - cum – Collector, Nalanda as also the respondent no. 8, the Project Director, 'the N.H.A.I.' shall be paying Rs. 50,000/- each to the three petitioners. It is clarified that the each petitioner is entitled for payment of Rs. 1,00,000/- each (Rs. 50,000/- each to be paid by 'the N.H.A.I.' and the State). The amount shall be cleared by both the respondents within a period of three months from the date, the copy of the order is received in their respective offices. This order has been passed in the presence of learned Counsels for 'the N.H.A.I.' and the State



and both undertook to inform the concerned respondents immediately.

23. The District Magistrate, Nalanda is free to fix responsibility upon the authorities whose faux pass led him to file an erroneous counter affidavit making categorical statement that no land of the petitioners has/have been used for the purpose of widening of the NH-82.

24. The writ petition stands disposed of with the aforesaid observations.

**(Rajiv Roy, J)**

guddu/-

|                   |            |
|-------------------|------------|
| AFR/NAFR          | AFR        |
| CAV DATE          | N/A        |
| Uploading Date    | 15/05/2024 |
| Transmission Date | 15/05/2024 |

