

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6978 of 2021

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1. Rampari Devi wife of Sri Suresh Kumar Singh resident of Village Asopur, P.S. Piprahi, District- Sheohar.
 2. Suresh Kumar Singh Son of Late Jagat Nrayan Singh resident of Village Asopur, P.S. Piprahi, District- Sheohar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Department of Revenue and Land Reforms, Patna.
2. Collector, Sheohar.
3. Deputy Development Commissioner, Sheohar.
4. Land Acquisition Officer, Sheohar.
5. Executive Engineer, District Rural Development Authority, Sheohar.
6. Mukhiya, Gram Panchayat Raj, Kolhua Thikhah, Purnahiya Prakhand, P.S.- Purnahiya, District- Sheohar.
7. Panchayat Sachiv, Kolhua Thikhah, Purnahiya Panchayat, P.S.- Purnahiya, District- Sheohar.
8. The Programme Officer, Purnahea, District- Sheohar.
9. The Sub - Divisional Public Grievances Cell Authority, Sheohar.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Yogendra Mishra, Advocate
Ms. Swati Mishra, Advocate

For the Respondent/s : Mr. Saurabh Kumar, AC to SC-19

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL JUDGMENT

Date : 18-09-2025

The instant writ application has been filed by the petitioners under Article 226 of the Constitution of India, seeking the following relief(s):

"(i) An appropriate writ/order/direction, declaring action of the Respondents 1st party constructing road upon the petitioners' land under Pradhan Mantri Sadak Yojna, without any process for acquisition of land



and without paying compensation as illegal, arbitrary, void and without jurisdiction, be issued

(ii) An appropriate writ/order/direction, commanding the respondents to restore the possession of land to the petitioners, be issued;

(iii) Alternatively, an appropriate writ/order/direction, commanding the respondents 1st party to make payment of compensation determined under the provisions of law from the date of dispossession i.e. 24.07.2008 till payment, be issued;

(iv) Any other relief or reliefs, to which the petitioner is entitled to, be granted."

2. Heard Mr. Yogendra Mishra, learned counsel appearing for the petitioners, and Mr. Saurabh Kumar, learned AC to SC-19, appearing for the State-Respondents as well as Respondent Nos. 6 and 9.

3. Learned counsel appearing for the petitioners submits that in the year 2008, Respondent Nos. 6 and 7, the then Mukhiya of Gram Panchayat Raj, Kolhua Thikhah, and the then Panchayat Secretary of the said Panchayat, intended to construct a road upon the petitioners' land forcibly, which was objected to by petitioner no. 2, whereupon *marpit* took place. Then, petitioner no. 2 filed a complaint case before the SDJM, Sheohar, on 24.07.2008. On that basis, a police case was registered, and after investigation, the chargesheet was submitted against the accused persons on 24.07.2020. The trial of the accused for the alleged



offences is still running, and in this regard, Annexures-3 and 5 are relevant. It is further submitted that the Respondent 1st Party, in connivance with Respondent Nos. 1 to 4, encroached upon the petitioners' land and dispossessed them, which was completely illegal. The said land is the source of livelihood of the petitioners, and the petitioners' land has been used by the Respondents to construct a government road without acquiring the same and without giving compensation for the acquired land to the petitioners. The petitioners were dispossessed in the year 2008 and thereafter have been running pillar to post for redressal of their grievances. It is further submitted that under the direction of Respondent No. 5, the Anchal Adhikari (Circle Officer) deputed the Amin to measure the land of the petitioners and submit a report. Then, the Anchal Amin measured the land in question and found a pitch road being constructed over 75 decimals of land belonging to the petitioners. He also found that soling had been made over 50 decimals of the land and further found that the Respondents cut away earth from 25 decimals of the land belonging to the petitioners. Accordingly, in total, the Respondents have taken possession of 2.57 acres out of 2.98 acres of the petitioners' land. The petitioners paid rent in respect of their land up to the year 2021-22. The Respondents, in the most



arbitrary manner, without issuing a notification for acquisition, without providing an opportunity of hearing, and without any process for compensation, dispossessed the petitioners from their land as far back as 2008, despite a criminal case being pending in connection with the alleged wrong lodged by the petitioners. The petitioners have been kept out of possession of their land for about fifteen years and therefore are entitled to damages for the entire period of 15 years. The report of the Anchal Amin has been filed by the petitioners with the reply to the counter affidavit filed by Respondent No. 5. Though in the report of the Anchal Amin, petitioners' land measuring 1.40 acres was shown as being used for the construction of the road, the Anchal Amin suppressed the real fact because the land falling on both sides of the road is in the nature of a ditch, i.e., about four feet, from which the Respondents have removed earth/soil for the purpose of construction of the road. It is lastly submitted that though the Right to Property is not a Fundamental Right but it is a Human and Constitutional Right and comes within the purview of usual rights such as the Right to Health and Right to Livelihood. The property of an individual cannot be used by any authority without acquiring it and without compensating such individual. In support of this contention, learned counsel has placed reliance upon the



judgment of the Hon'ble Apex Court passed in the case of ***Tukaram Kana Joshi and Ors. through Power of Attorney Holder v. M.I.D.C. and Ors.***, reported in ***(2013) 1 SCC 353***, and has referred to the relevant paragraph nos. 9, 16, and 17 of the said judgment, which are reproduced as under:

“ 9. The right to property is now considered to be not only a constitutional or a statutory right but also a human right. Though, it is not a basic feature of the Constitution or a fundamental right. Human rights are considered to be in realm of individual rights, such as the right to health, the right to livelihood, the right to shelter and employment, etc. Now however, human rights are gaining an even greater multifaceted dimension. The right to property is considered very much to be a part of such new dimension. (Vide Lachhman Dass v. Jagat Ram [(2007) 10 SCC 448] , Amarjit Singh v. State of Punjab [(2010) 10 SCC 43 : (2010) 4 SCC (Civ) 29] , State of M.P. v. Narmada Bachao Andolan [(2011) 7 SCC 639 : (2011) 3 SCC (Civ) 875 : AIR 2011 SC 1989] , State of Haryana v. Mukesh Kumar [(2011) 10 SCC 404 : (2012) 3 SCC (Civ) 769 : AIR 2012 SC 559] and Delhi Airtech Services (P) Ltd. v. State of U.P. [(2011) 9 SCC 354 : (2011) 4 SCC (Civ) 673 : AIR 2012 SC 573])

16. The High Court committed an error in holding the appellants non-suited on the ground of delay



and non-availability of records, as the Court failed to appreciate that the appellants had been pursuing their case persistently. Accepting their claim, the statutory authorities had even initiated the acquisition proceedings in 1981, which subsequently lapsed for want of further action on the part of those authorities. The claimants are illiterate and inarticulate persons, who have been deprived of their fundamental rights by the State, without it resorting to any procedure prescribed by law, without the Court realising that the enrichment of a welfare State, or of its instrumentalities, at the cost of poor farmers is not permissible, particularly when done at the behest of the State itself. The appellants belonged to a class which did not have any other vocation or any business/calling to fall back upon, for the purpose of earning their livelihood.

17. Depriving the appellants of their immovable properties was a clear violation of Article 21 of the Constitution. In a welfare State, statutory authorities are bound, not only to pay adequate compensation, but there is also a legal obligation upon them to rehabilitate such persons. The non-fulfilment of their obligations would tantamount to forcing the said uprooted persons to become vagabonds or to indulge in anti-national activities as such sentiments would be born in them on account of such ill-treatment. Therefore, it is not permissible for any welfare State to uproot a person and deprive him of his



fundamental/constitutional/human rights, under the garb of industrial development.”

Learned counsel has also placed reliance upon the judgment of the Hon'ble Apex Court passed in the case of ***Vidya Devi vs. State of Himachal Pradesh and Ors.***, reported in **(2020) 2 Supreme Court Cases 569**, and has placed reliance upon paragraph nos. 12.1 and 12.2 of the said judgment, which are reproduced as under:

“ 12.1. The appellant was forcibly expropriated of her property in 1967, when the right to property was a fundamental right guaranteed by Article 31 in Part III of the Constitution. Article 31 guaranteed the right to private property [State of W.B. v. Subodh Gopal Bose, (1953) 2 SCC 688 : AIR 1954 SC 92] , which could not be deprived without due process of law and upon just and fair compensation.

12.2. The right to property ceased to be a fundamental right by the Constitution (Forty-Fourth Amendment) Act, 1978, however; it continued to be a human right [Tukaram Kana Joshi v. MIDC, (2013) 1 SCC 353 : (2013) 1 SCC (Civ) 491] in a welfare State, and a constitutional right under Article 300-A of the Constitution. Article 300-A provides that no person shall be deprived of his property save by authority of law. The State cannot dispossess a citizen of his property except in accordance with the procedure established by law. The obligation to pay compensation, though not expressly included in Article 300-A, can be inferred in that Article.



[K.T. Plantation (P) Ltd. v. State of Karnataka, (2011) 9 SCC 1 : (2011) 4 SCC (Civ) 414]”

4. Mr. Saurabh Kumar, learned AC to SC-19, appearing for the State-Respondents, submits that the cause of action arose in the year 2008, but the petitioners filed this writ application in the year 2021 without explaining their prolonged silence in raising the issue. Though the issue raised by the petitioners is old, the Respondents got the petitioners’ matter inquired into, and Respondent No. 5 requested the Circle Officer, Puranhaiya, to get the land in question measured. Thereafter, the Circle Officer got the land measured with the help of the Circle Amin (Anchal Amin), who submitted his report dated 25.02.2023, stating that a road has been constructed on an area of 1.40 acres (1 acre and 40 decimals) pertaining to Khata No. 301, Khesra No. 2360. After receipt of the said report, Respondent No. 5 duly examined the claim of the petitioners and found that the land in question, as claimed by the petitioners, had long been using by villagers as a public road constructed with brick soling. The road in question was constructed over the existing brick-soling road, and the Respondents merely upgraded the old existing road under the Central Government Scheme titled ‘Pradhan Mantri Gram Sadak Yojana’ (PMGSY) in the public interest. It is further submitted



that the petitioners neither raised any issue when the land in question was being used by the villagers nor at the initial stage when the construction of the road started, and this prolonged silence on their part goes against the petitioners. Learned counsel further submits that the road in question has been constructed under the 'Pradhan Mantri Gram Sadak Yojana', and the scheme dealing with the said Yojana does not provide funds for land acquisition. Further, petitioner no. 2, namely Suresh Kumar Singh, had himself given a 'No Objection Certificate' (N.O.C.) for the construction of the road in question over the land in question. Therefore, the Respondents acted bonafide, and the petitioners are not entitled to any kind of compensation.

5. Heard both sides and perused the relevant materials. From the above submissions and the averments made in the counter affidavit filed by Respondent Nos. 2 to 4 and Respondent No. 5, one thing is quite clear: a village road under the 'Pradhan Mantri Gram Sadak Yojana' scheme was built upon the land of the petitioners in the year 2015–16. In this regard, the initial attempt for construction of the said road was made in the year 2008, and at that time, petitioner no. 2 objected and filed a complaint against the then Mukhiya and Panchayat Secretary of the concerned Panchayat, seeking criminal prosecution against



them for their alleged criminal wrongdoing, for which the accused named in that complaint were chargesheeted. From this complaint, it appears that the petitioners were not willing to permit the Gram Panchayat and others to construct the road upon their land. Surprisingly, some years after the filing of that complaint, the then Panchayat Secretary and Mukhiya proceeded to make a proposal for the construction of the road over the land of the petitioners, upon which Respondent No. 5 proceeded, and consequently, the road was constructed. It is also an admitted position that the petitioners' land had not been acquired before the construction of the road and no any kind of compensation had been given to them. Though the learned counsel appearing for the State-Respondents has mainly opposed the petitioners' prayer on three grounds.

6. The first ground is the long delay on the part of the petitioners in raising their issue regarding not receiving compensation for their land, which was acquired for the construction of the road.

This Court finds no substance in the said ground, as the petitioners started objecting to the Gram Panchayat's proposal to construct the road over their land in the year 2008, when the first attempt was made by the Gram Panchayat for the construction of



the alleged road. In this regard, a Criminal Complaint Case No. 198 of 2008 filed by the petitioners, a copy of which has been filed with this petition, is relevant.

7. The second ground is that the petitioners gave a 'No Objection' for the construction of the alleged road over their land, and in support of this ground, the learned counsel appearing for Respondent Nos. 2 to 4 has placed reliance upon Annexure 'B' filed with the counter affidavit.

From a bare perusal of Annexure 'B', it is evident that no any kind of 'No Objection' was given by the petitioners with regard to the construction of the alleged road over their land. Petitioner No. 2 simply stated in Annexure 'B' that he had received relevant information regarding the land for which he had filed a complaint, and now he had no complain regarding the dispute over the land. From these statements made by petitioner No. 2 in Annexure 'B', it cannot be inferred that the said petitioner had given his 'No Objection' to the construction of the alleged road over their land.

8. The third ground taken by the Respondents is that there is no provision for compensation under the Pradhan Mantri Gram Sadak Yojana (PMGSY).



In light of this contention, I have perused the relevant part of the said scheme. Though there is no provision for compensation under the said scheme, but however the scheme clearly states that the absence of such a provision does not mean that acquisition cannot be done by the State at its own cost. It is a settled position of law that the Right to Property is considered a Human and Constitutional Right in a Welfare State, and Article 300-A provides that no person shall be deprived of his property save by authority of law. The State cannot dispossess a citizen of his property except in accordance with the procedure established by law. The obligation to pay compensation, though not expressly included under Article 300-A, can be inferred from the said Article. In this regard, the observation made in paragraph No. 16 of the judgment passed by the Hon'ble Apex Court in the case of ***Dharnidhar Mishra (D) and Another vs. State of Bihar and Others***, in ***Civil Appeal No. 6351 of 2024***, reported in ***(2024) 10 Supreme Court Cases 605***, is relevant. The paragraph is reproduced as under:—

“ 16. The right to property ceased to be a fundamental right by the Constitution (Forty-fourth Amendment) Act, 1978, however, it continued to be a human right in a welfare State, and a constitutional right under Article 300-A of the Constitution. Article 300-A provides that no person shall be deprived of his property save by authority of law. The State cannot dispossess a citizen of his property except in accordance



with the procedure established by law. The obligation to pay compensation, though not expressly included in Article 300-A, can be inferred in that Article. [See: K.T. Plantation (P) Ltd. v. State of Karnataka [K.T. Plantation (P) Ltd. v. State of Karnataka, (2011) 9 SCC 1 : (2011) 4 SCC (Civ) 414] .]”

9. Accordingly, this Court is of the view that both the petitioners were deprived of their property (land) without adopting a lawful procedure, in which the then Mukhiya and the then Panchayat Secretary of the concerned Gram Panchayat were either completely negligent or they intentionally committed a wrong by making a proposal for the construction of the road over the petitioners' land. Further, the then Executive Engineer, District Rural Development Authority, Sheohar (Respondent No. 5), also remained fully careless in proceeding with the said proposal and granting necessary sanction and permission to construct the road. As such, the petitioners are entitled to compensation for their land which has been used for the construction of the alleged road. Therefore, Respondent No. 1, the State of Bihar through the Secretary, Department of Revenue and Land Reforms, Patna, is hereby directed to take steps to pay compensation for the petitioners' land used in the construction of the alleged road, after properly measuring the land that has been used for the road as well as for excavating soil, etc., under the



prevalent Land Acquisition Act. The calculation of the compensation must be completed within four months from the date of receipt of a copy of this Court's order or production thereof. Respondent No. 1 shall also pay interest on the calculated compensation amount from the month when the construction of the road started until the date of passing this order, as per the provisions of the Land Acquisition Act.

10. If there is no clear-cut provision for the payment of interest in such matters, then interest shall be paid at the normal rate of interest of the Nationalized Banks of India.

11. Respondent No. 1, the State of Bihar, through the Secretary, Department of Revenue and Land Reforms, Patna, shall also pay Rs. 1,00,000/- (Rupees One Lakh) to both the petitioners in addition to the aforesaid compensation amount. The same will be treated as a penalty on the then Mukhiya, the then Panchayat Secretary of the concerned Gram Panchayat, and the then Executive Engineer, District Rural Development Authority, Sheohar, and will be recoverable by Respondent No. 1 in equal proportion from all of them.

12. If Respondent No. 1, the State of Bihar through the Secretary, Department of Revenue and Land Reforms, Patna, fails to comply with this order, within the above stipulated time then



the period for interest shall continue to run until the date of payment.

13. Accordingly, with the above directions, the instant writ petition stands allowed.

(Shailendra Singh, J)

Maynaz/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	23.09.2025
Transmission Date	NA

