

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15103 of 2017

Shivanandan Yadav son of late Balli Yadav Resident of Village - Gimrahi,
Post - Sonapur, Police Station - Narpatganj, District - Araria.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The District Magistrate, Araria.
3. The District Land Acquisition Officer, Araria.
4. The Circle Officer, Narpatganj, District - Araria.
5. The Branch Manager, HDFC Bank Ltd. Netaji Market, Subhash Chowk,
Forbesganj Branch - 854318, Distri
6. The Chief General Manager, HDFC Bank Ltd, Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Amar Nath Singh, Adv. Mr. Kamal Kishore Singh, Adv.
For the Respondent/s	:	Mr. Dhurjati Kr. Prasad, G.P.14

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 29-04-2025 Heard Mr. Amar Nath Singh, learned counsel for
the petitioner and Mr. Dhurjati Kr. Prasad representing the State.

2. The present application has been filed:

*to direct the respondents to permit
the petitioner to operate his Saving Bank
Account No. 50100169390209 HDFC Bank
ITD, Netaji Market, Subhash CHOWK,
Forbesganj Branch-854318, District-Araria
and further to quash the letter No. 460 dated
28.07.2017 issued by the District Land
Acquisition Officer, Araria and for any other
order/orders, as your Lordships may deem fit
and proper in the mentioned facts and
circumstances of the case.*

3. It is the case of the petitioner that earlier, the land



was categorized as residential in nature and once the payment was made, pursuant to the enquiry held by the Collector, Araria again, it was brought down as agricultural in nature.

4. Aggrieved, a set of writ petitioners moved before this Court in **Girish Kedia and Analogous Cases** reported in **2025(1) PLJR192** in which a Bench of this Court after recording its finding in paragraphs 23 and 41 dismissed the petition which read as under:

5. Paragraph nos. 23 and 41:

23. With respect to the submissions that the Bank accounts of the petitioners have been frozen without there being any authority, it is contended that operation of the Bank accounts was restricted only to the extent of amount paid in lieu of compensation, against their respective lands, which later on found to be erroneous. It is next contended that the entire exercise for determination of the nature of the land has been proceeded in terms of the letter issued by the Government of Bihar in the Department of Revenue and Land Reforms, as contained in Memo No. 150 dated 15.02.2018, the copy of which has been placed on record and marked as Annexure-E Series to the counter affidavit filed on behalf of respondent nos. 3 and 4. The learned



*Government Advocates, while summing up their arguments, uniformly contended that neither any chit of paper nor any averment has been made that the lands, in question, are residential land. Since the award has not been approved till date, the Collector being the competent authority had the jurisdiction to rectify the mistake, if a mistake is committed in passing an administrative order, the same may be rectified. In order to substantiate such contention reliance has also been placed on a decision of the Hon'ble Supreme Court in the case of **Union of India and Ors. vs Bikash Kumar**, reported in (2006)8 SCC 192 wherein the Hon'ble Supreme Court held that "it is now trite that if a mistake is committed in passing an administrative order, the same may be rectified. Rectification of a mistake, however, may in a given situation require compliance of the principles of natural justice. It is only in a case where the mistake is apparent on the face of the records, a rectification thereof is permissible without giving any hearing to the aggrieved party".*

41. The law is well settled that any amount paid/received without the authority of law can always be recovered barring exceptions of extreme hardships or prohibited under any Statute/Rules, but not



as a matter of right. In such situation, law implies an obligation on the payee to repay the money, otherwise it would amount to unjust enrichment. The Hon'ble Supreme Court on various occasions held that the excess payment of public money which is often described as "tax payers' money" belongs neither to the officers who have effected over-payment nor that of the recipients. Possibly, effecting excess payment of public money by officers, may be due to various reasons like negligence, carelessness, collusion, favouritism etc. because money in such situation does not belong to the payer or the payee. Payments are being effected in many situations without any authority of law and payments have been received by the recipients also without any authority of law. This Court is also not unmindful of the fact that the land of the petitioners have been acquired by the State Government in terms of the prescription of Act, 2013 and thus they should be compensated adequately in commensurate with the valuation of the land. In case, the landholders get less payment against the value of their acquired land, it would be certainly transgress the statutory and constitutional right to property as mandated under Article 300A of the Constitution, but



once they receive excess payment to the value of their land, it would certainly amount to unjust enrichment.

6. Mr. Amar Nath Singh, learned counsel for the petitioner has taken this Court to paragraph nos. 50 and 51 of the same order which read as follows:

50. In view of the aforesaid facts, circumstances and the position in law, this Court does not find any merit in this batch of the writ petitions. Let the award may be passed within a period of three months, if not passed till date after completing all the formalities. Suffice it to observe that the petitioners would have the liberty to assail the same in accordance with prescription, as provided under the Act, 2013, if any person interested has not accepted it.

51. Now coming to the legality of the impugned action of the respondent Collector to the extent whereby, apart from directing the petitioners to ensure the payment of deferential amount of compensation; for the said purpose has frozen the Bank Accounts of the petitioners, this procedure is apart from illegal and arbitrary, do not have any sanction of law. Thus this Court deprecate such action. However, the respondent authorities shall be at liberty to recover the differential amount



by taking recourse of Public Demand Recovery Act, 1914 or through any other Act, in accordance with law, after finalization of the award, but without any interest accrued thereupon, as the petitioners were never at fault.

7. In view of the fact that a reasoned order has been passed in similar matter by a Co-ordinate Bench in **Girish Kedia** (supra) and others, this Court cannot go beyond that and will have to toe the same line. Before doing so, this Court has recorded the important paragraphs of the said judgment of **Girish Kedia** (supra) for following it.

8. The writ petition stands dismissed.

(Rajiv Roy, J)

Vijay Singh/-

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