

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13760 of 2016

1. Shanti Devi and Ors wife of Late Brijnandan Raut Son of Late Ram Bilash Raut
2. Ajay Kumar
3. Sanju Kumar
4. Bhola Kumar All sons of Late Brijnandan Raut All are residents of Village- Sudheri, P.S.- Muffasil, District- Gaya.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Commissioner, Magadh Division, Gaya, Bihar.
3. The District Magistrate, Gaya, Bihar.
4. The District Land Acquisition Officer, Gaya, Bihar.
5. The District Sub-Registrar, Gaya, Bihar.
6. The Director General, Border Security Force, Ministry of Home Affairs, Government of India, New De

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Praveen Prakash, Advocate
For the Respondent/s	:	Mr. Raj Kishore Roy- GP18
For the BSF	:	Mr. Anshay Bahadur Mathur, CGC

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 28-07-2025 Heard Mr. Surendra Kumar Singh, learned Senior

counsel for the petitioner, the State as also learned counsel for

the Union of India.

2. The present petition has been preferred for the
following relief(s):

*“(I) quashing the land acquisition
proceedings in relation to the acquisition of 47.97
acres of land in which 3.06 acres of land of the*



petitioners situated in village Iguna, Thana no.310, Anchal Manpur, P.S. Muffasil, District Gaya was acquired pursuant to the notifications dated 19.8.2013 and 20.8.2013 published in the daily news paper "Prabhat Khabar" dated 31.8.2013 and 1.9.2013 respectively declaring the land in question needed for public purpose, namely construction of quarters for Border Security Force by invoking urgency clauses under Section 17(4) of the land Acquisition Act, 1894 (Act 1 of 1894) as amended by Land Acquisition (Bihar Amendment) Act, 1960 (11 of 1961) and directing the State Government/authorities to make over the vacant possession of the land to the petitioner.

(II) quashing the Land Acquisition Proceedings in relation to the land of the petitioner acquired pursuant to the notification dated 19.8.2013 and declaration dated 20.8.2013 under the provisions of Land Acquisition Act 1894 (hereinafter referred to as the "1894 Act") on account of the fact that the award in relation to the land of the petitioners under Section-11 of 1894



Act has not been made within a period of two years from the date of publication of the declaration as a result of which the entire proceedings for the acquisition of the land in question has lapsed by virtue of Section-11-A of 1894 Act.

(III) directing the respondents to initiate a fresh proceeding, if they so desired, in respect of the land of the petitioner in terms of the Right To Fair Compensation And Transparency In Land Acquisition, Rehabilitation and Resettlement Act, 2013 ((30 of 2013) (hereinafter referred to as the "Act 30 of 2013") and to pay compensation in accordance with the said Act and further directing that even if it is deemed that award has been made, though in fact no award under Section 11 of 1894 Act has been made, the land acquisition proceedings have lapsed as far as the land of the petitioner is concerned since the respondent State has neither paid the compensation nor even determined the same in accordance with Section-24 of Act 30 of 2013.

(IV) issuing any other



writ/writs/order/orders/direction/directions as may be deemed fit in the facts and circumstances of this case.

3. The widow of late Brijnandan Raut alongwith her children is before this Court and learned Senior counsel submits that the admitted position is/are:

(i) acquisition has taken place;

(ii) award has been prepared;

(iii) only because the widow could not appear before the respondent-authorities having little knowledge about the nitty gritty of the law, the payment has still eluded the family of late Brijnandan Raut.

4. Two counter-affidavits have been filed, one by the Central Government through the Deputy Inspector General, Training Center and School, Border Security Force (respondent no. 6) (henceforth for short 'the BSF') as also the Collector, Gaya and the District Land Acquisition Officer, Gaya (respondent nos. 3 and 4 receptively).

5. The counter-affidavit of the respondent no. 6 while admitting the claim, has recorded in paragraph-16 that full cost of the land has been deposited vide Demand Draft No. 282423 dated 30.12.2015 for the total acquired land measuring 41.43



acre in the office of respondent no. 4 for distributing it among the land owners.

6. So far as the counter-affidavit of the respondent no. 3 and 4 is/are concerned, the connecting annexure has been brought on record to show that the award has been prepared but in paragraph no. 15 shows that as the family of the petitioners failed to approach in time, it has lapsed.

7. Learned Senior counsel submits that the admitted position is that the petitioners' land has been acquired for the Border Security Force, the amount was transferred in the coffers of the District Collectorate to be distributed amongst the land owners. The petitioner is a widow with children, it is ironical that a stand has been taken that they failed to approach in time and as such, the same has lapsed.

8. Learned Senior counsel has taken this Court to the judgment of Hon'ble Apex Court in the case of **Bernard Francis Joseph VAZ and Ors. vs. Government of Karnataka & Ors. in Civil Appeal No. of 2025 (arising out of SLP (C) No. 10338 of 2023) reported in 2025 SCC Online SC 20** with a specific reference to **paragraph 46** to submit that right to property is now considered to be not only a constitutional or statutory right but also a human right and in a welfare state, the



statutory authorities are legally bound to pay adequate compensation.

9. Para 46 of the order of Hon'ble the Apex Court in **Bernard Francis Joseph VAZ and Ors.** (supra) read as follows:

46. This Court has held in Dharnidhar Mishra (D) v. State of Bihar, 2024 SCC Online SC 932 and State of Haryana v. Mukesh Kumar; (2011) 10 SCC 404 that the right to property is now considered to be not only a constitutional or statutory right, but also a human right. This Court held in Tukaram Kana Joshi thr. Power of Attorney Holder v. M.I.D.C., (2013) 1 SCC 353 that in a welfare State, the statutory authorities are legally bound to pay adequate compensation and rehabilitate the persons whose lands are being acquired. The non-fulfilment of such obligations under the garb of industrial development, is not permissible for any welfare State as that would tantamount to uprooting a person and depriving them of their constitutional/human right."

10. Learned Central Government counsel, Mr. Anshay



Bahadur Mathur submits that so far as they are concerned, acknowledging the land of the petitioners, the amount has been transferred and it is for the District Collectorate to disburse it.

11. The State counsel is unable to clarify how and under what circumstance and under what provision, it has been recorded that for not approaching in time, the amount has lapsed.

12. In that background, this Court having taken note of the Hon'ble Apex Court Judgment in the case of **Bernard Francis Joseph VAZ & Ors. (supra)** as also the submissions put forward by the learned Senior counsel for the petitioner that the property being the constitutional/statutory/human rights for the petitioner to get the compensation amount for the land which belong to them and further taking note of the fact that the contention of the State nowhere records that there is any dispute relating to the ownership, in that background, the petitioners are entitled to the award amount that has been prepared in favour of the husband of the petitioner no. 1.

13. In that background, the writ petition stands disposed of allowing the petitioner to approach the respondent no. 4, District Land Acquisition Officer, Gaya who shall be looking into the matter and shall passing necessary order for the



payment of the amount preferably within a period of sixty days from the date, the copy of the order is produced before him/her.

14. This order has been passed in the background of the fact that the counter-affidavit nowhere records that there is any dispute regarding the ownership of the land which belongs to late late Brijnandan Raut and/or there is no objection relating to the land pending before the office of the District Land Acquisition Officer, Gaya.

15. The writ petition stands disposed of with aforesaid observation.

(Rajiv Roy, J)

Adnan/-

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