

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1259 of 2024

In
Civil Writ Jurisdiction Case No.4961 of 2022

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1. The Chairman, Bihar Rajya Pul Nirman Nigam Limited, Patna.
 2. The Managing Director, Bihar Rajya Pul Nirman Nigam Limited, Patna.
 3. The Senior Project Manager, Bihar Rajya Pul Nirman Nigam Limited, Saharsa.

... .. Appellant/s

Versus

1. Shambhu Prasad Gupta Son of Late Shanti Prasad Gupta, Resident of Ward No.21, Shankar Chowk, Police Station- Saharsa, District- Saharsa.
2. The Union of India through the Secretary, Ministry of Railway, Rail Bhawan, New Delhi.
3. The Secretary, Ministry of Railway, Rail Bhawan, New Delhi.
4. The Secretary, Ministry of Road Transport and Highways, Transport Bhawan, Parliament Street, New Delhi.
5. The General Manager, East Central Railway, Hajipur, District- Vaishali.
6. The Divisional Railway Manager, East Central Railway, Samastipur.
7. The State of Bihar, through the Additional Chief Secretary, Road Construction Department, Patna.
8. The Additional Chief Secretary, Road Construction Department, Patna.
9. The District Magistrate, Saharsa.
10. The District Land Acquisition Officer, Saharsa.
11. The Superintending Engineer, RCD Road Circle, Saharsa.
12. The Executive Engineer, RCD Road Division, Saharsa.
13. The Sub Divisional Officer, Saharsa.
14. The Circle Officer, Kahra, District- Saharsa.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 4961 of 2022

Shambhu Prasad Gupta, Son of Late Shanti Prasad Gupta, Resident of Ward No. 21, Shankar Chowk, Police Station, Saharsa, District - Saharsa.

... .. Petitioner/s

Versus

1. The Union of India, through the Secretary, Ministry of Railway, Rail Bhawan, New Delhi.
2. The Secretary, Ministry of Railway, Rail Bhawan, New Delhi.



- 3. The Secretary, Ministry of Road Transport and Highways, Transport Bhawan, Parliament Street, New Delhi.
- 4. The General Manager, East Central Railway, Hajipur, District - Vaishali.
- 5. The Divisional Railway Manager, East Central Railway, Samastipur.
- 6. The State of Bihar, through the Additional Chief Secretary, Road Construction Department Patna.
- 7. The Additional Chief Secretary, Road Construction Department, Patna.
- 8. The Chairman, Bihar Rajya Pul Nirman Nigam Limited, Patna.
- 9. The Managing Director, Bihar Rajya Pul Nirman Nigam Limited, Patna.
- 10. The District Magistrate, Saharsa.
- 11. The Senior Project Manager, Bihar Rajya Pul Nirman Nigam Limited, Saharsa.
- 12. The District Land Acquisition Officer, Saharsa.
- 13. The Superintending Engineer, RCD Road Circle, Saharsa.
- 14. The Executive Engineer, RCD Road Division, Saharsa.
- 15. The Sub Divisional Officer, Saharsa.
- 16. The Circle Officer, Kahra, District - Saharsa.

... .. Respondent/s

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with

Miscellaneous Jurisdiction Case No. 2175 of 2023

In

Civil Writ Jurisdiction Case No.4961 of 2022

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Shambhu Prasad Gupta Son of Late Shanti Prasad Gupta Resident of Ward No. 21, Shankar Chowk, Police Station, Saharsa, District - Saharsa.

... .. Petitioner/s

Versus

- 1. The Union of India through Sri Milind K. Deouskar, the Secretary, Ministry of Railway, Rail Bhawan, New Delhi.
- 2. Sri Milind K. Deouskar, the Secretary, Ministry of Railway, Rail Bhawan, New Delhi.
- 3. Sri Anurag Jain, The Secretary, Ministry of Road Transport and Highways, Transport Bhawan, Parliament Street, New Delhi.
- 4. Sri Anupam Sharma, the General Manager, East Central Railway, Hajipur, District Vaishali.
- 5. Sri Vinay Srivastava, the Divisional Railway Manager, East Central Railway, Samastipur.
- 6. The State of Bihar, through Sri Pratyay Amrit, the Additional Chief Secretary, Road Construction Department Patna.
- 7. Sri Pratyay Amrit, the Additional Chief Secretary, Road Construction Department, Patna.



- 8. Sri Abhay Kumar Singh, the Chairman, Bihar Rajya Pul Nirman Nigam Limited, Patna.
- 9. Sri Sunil Kumar, the Managing Director, Bihar Rajya Pul Nirman Nigam Limited, Patna.
- 10. Sri Vaibhav Chaudhary, the District Magistrate, Saharsa.
- 11. Sri Depesh Kumar, the Senior Project Manager, Bihar Rajya Pul Nirman Nigam Limited, Saharsa.
- 12. Sri Rabindra Kumar, the District Land Acquisition Officer, Saharsa.
- 13. Sri Umashankar Rajak, the Superintending Engineer, RCD Road Circle, Saharsa.
- 14. Sri BHarat Lal, the Executive Engineer, RCD Road Division, Saharsa.
- 15. Sri Pradeep Kumar Jha, the Sub Divisional Officer, Saharsa.
- 16. Sri Laxman Prasad, the Circle Officer, Kahra, District - Saharsa.

... .. Opposite Party/s

Appearance :

(In Letters Patent Appeal No. 1259 of 2024)

For the Appellant/s : Mr. P.K. Shahi, Advocate General

Mr. Md. Nadim Seraj, Advocate

For the UOI : Mr. Dr. K.N. Singh, A.S.G.

For the Respondent/s : Mr. P.N. Shahi, Sr. Advocate

Mr. Satish Kumar Singh, Advocate

(In Civil Writ Jurisdiction Case No. 4961 of 2022)

For the Petitioner/s : Mr. Satish Kumar Singh, Advocate

For the Respondent/s : Mr. Uday Shankar Sharan Singh (G.P.-19)

For the State : Mr. Swapnil Kumar Singh, A.C. to G.P

For the Railway : Mr. Anshay Bahadur Mathur, C.G.C.

(In Miscellaneous Jurisdiction Case No. 2175 of 2023)

For the Petitioner/s : Mr. Satish Kumar Singh, Advocate

For the Opposite Party/s : Mr. Additional Solicitor General

For the Railway : Mr. Anshay Bahadur Mathur, C.G.C.

CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date : 10-02-2025

Re. I.A. No. 1 of 2024 in L.P.A. No. 1259 of

2024 :-

The learned Advocate for the appellants presses



the afore-noted interlocutory application for condoning the delay of 740 days in preferring this appeal.

2. For the reasons stated in the application, the delay of 740 days in preferring this appeal is, hereby, condoned.

3. I.A. No. 1 of 2024 stands allowed.

Re. L.P.A. No. 1259 of 2024; C.W.J.C. No. 4961 of 2022 and M.J.C. No. 2175 of 2023 :-

4. We have heard Mr. P.K. Shahi, the learned Advocate General for the State; Mr. P.N. Shahi, the learned Senior Advocate for the respondents and Dr. K.N. Singh, the learned Additional Solicitor General for the Union of India. We have also heard Mr. Anshay Bahadur Mathur, the learned counsel for the Railways.

5. For the reason of a writ petition having been kept pending by a learned Single Judge of this Court and also entertaining the contempt petition simultaneously, the State came before this Court challenging the order passed by the Writ Court, asking the respondents to



apprise the Court of the developments in the matter.

6. The issue relates to the construction of ROB (Rail Over Bridge) in the District of Saharsa at a particular location.

7. The writ petitioner had preferred an application seeking a direction to the Authorities/respondents to review and shift the proposed plan of construction of ROB to some more convenient place or to redesign the proposed approach road connecting the ROB to some other place, which would have saved the main market places of Saharsa town from being displaced.

8. Entertaining such a prayer, the learned writ-Court directed the respondents to re-consider shifting or changing the alignments and also include the writ petitioner in its discussions. The same was done, but in the absence of the writ petitioner, meeting was held and the issue was deliberated upon.

9. The Railway Administration also looked at the



plan and the design and found that the suggestions made by the petitioner were not feasible for the reason of safety and durability of the ROB.

10. Nonetheless, despite such facts having been brought to the notice of the learned Single Judge, a contempt petition was entertained and an order was passed that the authorities would apprise the Court about the progress made in the construction of ROB.

11. After about seven months of passing such orders by the contempt Court, the State preferred an appeal alleging that because of the pendency of the writ petition and the contempt petition together before the learned Single Judge, the work of ROB construction has been derailed, which has enured in no body's favour or advantage.

12. On a plain reading of orders passed by the writ Court as also by the contempt Court, we are at a loss to understand as to how, without any stay order having been passed, the process of construction was delayed.



Nonetheless, because of that apprehension in the mind of the respondents that during the pendency of such petitions before the learned Single Judge, it would only be wise and prudent not to proceed with the work any further, a decision was taken to challenge the order of the writ Court.

13. We thus deem it appropriate to and condone the delay in preferring the appeal.

14. For the purposes of putting an end to all this litigation, this Court had earlier called for the records of C.W.J.C. No 4961 of 2022 and the contempt petition (M.J.C. No. 2175 of 2023) along with this appeal.

15. All the records have been produced before this Court.

16. Mr. P.N. Shahi, the learned Senior Advocate for the writ petitioner has argued that the recalcitrance of the Railway Authorities in not changing the plan or making a deviation in the site plan would only end up in usurpation of land belonging to the landholders but no



process, as yet, has been started for acquisition of their lands, thus anticipating that it would be an “acquisition under ambush”, without following the procedures prescribed under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 with respect to the safeguards which inheres in the Act, guaranteeing the right to property under Article 300 (A) of the Constitution.

17. We are afraid ,such was not the prayer in the writ petition.

18. The writ petitioner had approached this Court only with the prayer for commanding the respondents to review the design of ROB, its alignment and the approach road.

19. We are of the considered view that a *mandamus* could be issued only for enforcing a right and not for adjudication of rights.

20. In the present case, the learned Single Judge though was content with making a direction for a



re-consideration of the entire design at the instance of the writ petitioner, which was done but not found to be feasible, kept the petition pending and also entertained the contempt petition.

21. We, therefore, thought it best in this appeal to look at the records of the writ petition as also the contempt petition and take a final call for the reason that the work has not progressed even a wee bit.

22. We find that the views of the writ petitioner was put across, considered, and rejected because it was not found to be viable as also feasible to make any changes on the alignments, even if it be at the cost acquisition of land, which would entail more costs to the Government.

23. The technical decisions cannot be interfered with and no Court, in its wisdom, could substitute its opinion or the opinion of a writ petitioner for that of the specific inputs by the technocrats, who have taken an informed decision and have found the suggestions of the



writ petitioner to be absolutely unviable.

24. Under these circumstances, in order to put a decent quietus to all these proceedings, we have examined all the three records, viz., L.P.A. No. 1259 of 2024, C.W.J.C. No 4961 of 2022 and M.J.C. No. 2175 of 2023 and we find that it would be in the interest of everyone that all three are closed and consigned.

25. We order accordingly.

(Ashutosh Kumar, ACJ)

(Partha Sarthy, J)

Manoj/Praveen-II

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	12.02.2025
Transmission Date	NA

