

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.35 of 2024

In

Civil Writ Jurisdiction Case No.14768 of 2022

Jai Shankar Sharma son of Sri Raghuvansh Sharma, Resident of Village-Ganga Sarai, P. S. Barahiya, District- Lakhisarai

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Road Construction Department, Government of Bihar, Vishwaraiya Bhawan, Bailey Road, Patna.
2. The Principal Secretary, Gram Karya Vibhag, Vishwaraiya Bhawan, Bailey Road, Patna.
3. The Engineer-in- Chief, Road Construction Department, Government of Bihar, Vishwaraiya Bhawan, Bailey Road, Patna.
4. The Chief Engineer, Road Construction Department, Government of Bihar, Vishwaraiya Bhawan, Bailey Road, Patna.
5. The Chief Engineer, Gramin Karya Vibhag, Vishwaraiya Bhawan, Bailey Road, Patna.
6. The Collector/District Magistrate, Lakhisarai.
7. The Executive Engineer, Road Construction Department, Lakhisarai.
8. The Circle Officer, Barahiya, Lakhisarai.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Rajesh Mohan, Advocate

For the Respondent/s : Mr. Sanjay Kumar, AC to GA-13

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH

and

HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE SUDHIR SINGH)

3 02-02-2026 Heard learned counsel for both the parties.

2. The present *intra* court appeal has been filed challenging the order dated 11.12.2023 passed in C.W.J.C. No. 14768 of 2022, whereby the learned Single Judge has dismissed the writ petition.

3. The brief facts of the case are that the appellant is



the owner of a piece of land situated in Village- Jaitpur, P.S. Barahiya, District- Lakhisarai appertaining to Mauza- Nathanpur, Thana No. 180, Khata No. 67, Khesra No. 1009, 1061, 1038 and 1026, Area- 3 acres 7.5 decimals. In the year 2010-11 under the Prime Minister Gram Sadak Yojna (Yojna No. BR19R037), a road was constructed connecting Kamarpur village to Barahiya via Nathanpur. It is alleged by the appellant that the said road has been constructed by acquiring his *raiya* land without his consent.

4. The learned Single Judge while dismissing the writ petition observed as follows:

“4. It is not in dispute that the said scheme of Prime Minister Gram Sadak Yojna for the construction of road did not contemplate acquisition of land rather consent of the land owners was needed to implement the scheme.

5. A counter-affidavit has been filed on behalf of the State. It is contended that in the present case, the road was actually constructed in the year 2010-2011 by the Roral Works Construction Division, Sheikhpura under the Prime Minister Gram Sadak Yojna No. BR19R037 and in the year 2019-2020, only widening/strengthening the alignment of the said road has been done without occupying any further land. It is further contended that at the time of construction of the road, no objection was raised



by the petitioner

6. There is no material on record to suggest that when the road was being constructed, the petitioner raised any grievance against the same. In fact, he remained silent when the road was being constructed indicates that he had agreed to construction of the road. More than ten years after construction of the road under the Prime Minister Gram Sadak Yojna, no relief can be granted to the petitioner as has been sought in the present writ application.

7. This writ application is accordingly dismissed.”

5. The learned counsel for the appellant submits that the construction of the road on the land of the appellant has been done without the consent of the appellant, and the respondent authorities ought to have followed the statutory provisions with regards to payment of compensation against the acquisition of land. The learned counsel for the appellant further submits that the appellant has not been treated at par with other landlords whose land has been acquired in the construction of the said road.

6. The learned counsel for the respondent-state submits that the learned Single Judge had rightly dismissed the writ petition after going through submissions and materials on record, and therefore the order of the learned Single Judge



requires no interference.

7. A counter affidavit has been filed on behalf of Respondent Nos. 1, 3 and 7. From a bare perusal of the counter affidavit, it is evident that the road was constructed under the *Pradhan Mantri Gram Sadak Yojna* (PMGSY) by the Rural Works Department in the year 2010-11 and the appellant approached the Court after passing of almost 11 years. The relevant paragraphs of the counter affidavit is reproduced as under:

“8. That the petitioner (appellant) did not raise any objection while the road was being constructed under PMGSY in the year 2010-2011 meaning thereby the petitioner (appellant) has consented for the same.

9. That the appellant for the first time in the year 2022, made representation for compensation of the land, which is more than 10 years of its completion.

10. That the appellant was silent for 11 years when road was allegedly being constructed on his private land for the reason best known to him.”

8. Under the *Pradhan Mantri Gram Sadak Yojna* (PMGSY) scheme, provisions for voluntary donation of land for construction of village roads have been made. The conduct of the petitioner, and the facts and circumstances of the present case *prima facie* show the consent of the petitioner for the



construction of the road in question, as the petitioner did not raise any grievance at the time of construction or at the earliest opportune moment available to him.

9. Upon perusal of records of this case, it is evident that no material evidence has been produced before this court to show that any unauthorized construction of road had taken place on the land of the petitioner without his consent. Thus, the appellant has been unable to substantiate his claim that a road has been constructed on his land without his consent. As such the claim of the petitioner, that too after more than 10 years of construction of the road cannot be entertained.

10. In view of the discussions made above, we find no illegality and infirmity in the order of the learned Single Judge. The present Letters Patent Appeal (LPA) is accordingly, dismissed.

11. Pending application(s), if any, shall stand disposed of.

(Sudhir Singh, J)

(Rajesh Kumar Verma, J)

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