

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1186 of 2026

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Mahesh Saw Son of Late Parmeshwar Saw, Resident of Village- Babua Bazar,
P.S.- Piri Bazar, District -Lakhisarai. At present- 351, Majitha Road,
Dashmesh Avenue, Amritsar (Punjab), PIN- 143008

... .. Petitioner/s

Versus

1. The Union of India through the General Manager, Eastern Railway, Kolkata.
2. The D.R.M. Eastern Railway, D.R.M. Office, Malda, West Bengal.
3. The State of Bihar Through, Principal Secretary, Land and Revenue Department, Bihar, Patna.
4. The District Magistrate, Lakhisarai.
5. The Sub-Divisional Officer, Lakhisarai Sadar, District -Lakhisarai.
6. The Superintendent of Police, Lakhisarai.
7. The Circle Officer, Suryagarha Anchal, District -Lakhisarai.
8. The S.H.O., Piri Bazar, Police Station, District- Lakhisarai.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Mayank Bilochan, Advocate
For the Respondent/s	:	AC to SC 15
For the UoI	:	Mr. Girijesh Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 31-01-2026

Heard Mr. Mayank Bilochan, learned counsel
appearing on behalf of the petitioner; learned AC to SC 15 for
the State and Mr. Girijesh Kumar, learned counsel for the Union
of India.

2. The petitioner in paragraph no. 1 of the present writ
petition has sought, *inter alia*, the following relief(s), which is
reproduced hereinafter:-

“(i) For issuance of an appropriate writ
commanding the respondents not to
construct the Railways Under Pass, over
the land of petitioner which is
Raiyti/Purchase land of the petitioner.
(ii) For issuance of an appropriate writ
restraining the respondents not to make
any interference in the peaceful
possession of the petitioner.



(iii) For issuance of an appropriate writ commanding the respondent to first acquire the land under the provision of land acquisition act and pay the compensation or vacate the land of the petitioner.
(iv) For any other relief or reliefs for which petitioner is entitled.”

3. The brief facts of the case are that the subject matter of dispute relates to land situated at Mauza-Laxmipur, Thana No. 81, Tauzi No. 5443, Khata No. 62, Khesra No. 77, measuring an area of 5.12 decimals. The father of the petitioner, namely Late Parmeshwer Saw, purchased the said land from the ex-raiyat, Ramakrishna Prasad, vide a registered sale deed dated 28.05.1992, and thereafter came in peaceful possession of the land. His name was duly mutated in the revenue records vide Jamabandi No. 319 of Mauza-Laxmipur, and rent receipts were issued in his favour. After his demise in the year 2020, the said land devolved upon his sons, namely Mahesh Saw and Gunjan Kumar, and pursuant to a partition dated 08.05.2021, the land fell to the share of the petitioner, who has been in actual, peaceful possession and has been regularly paying rent. It is alleged that all of a sudden on 10.12.2025, officers of Eastern Railway, Jamalpur Section, along with contractors, started storing construction materials and carried out soil filling over the petitioner's land for construction of a railway underpass near Bariyarpur Railway Crossing, without initiating any land



acquisition proceedings. Upon objection, the petitioner was allegedly threatened by the railway officials. It is the specific case of the petitioner that no notice of acquisition has been served upon him nor any compensation paid. The petitioner submitted representations dated 24.12.2025 before the General Manager, Eastern Railway, Kolkata, and also before the District Magistrate, Lakhisarai, seeking stoppage of the construction and vacation of his land, but no action has been taken, compelling the petitioner to approach this Court

4. Learned counsel appearing on behalf of petitioner submitted that a representation has already been filed before the different respondents including the Railway Authorities/District Magistrate, Lakhisarai (Annexure- P/2 and P/3 respectively) which has not been entertained till date and seeks to file a fresh representation before the District Collector- cum - Magistrate, Lakhisarai for the relief(s) as prayed for in the present writ petition.

5. *Per contra*, learned counsel appearing on behalf of the State submitted that the petitioner himself is responsible for not receiving due compensation. Petitioner has himself delayed and has directly approached this Hon'ble Court. Accordingly, the writ petition is not maintainable.



6. Heard the parties.

7. It is commonly seen that the officers having quasi judicial power on their administrative side often delay in considering the representation filed by the aggrieved person or they deliberately delay to even adjudicate those cases where they exercise their adjudicatory power, while, it is well settled principle of law that High Courts should not exercise its writ jurisdiction under Article 226 of the Constitution of India if an effective and efficacious remedy is available. Taking into the circumstances of the present case where fundamental/constitutional right of a citizen is infringed, this Court must not fail to exercise its power under Article 226 of the Constitution of India.

8. It is also well settled principle of law that every administrative action in want of reason is not sustainable as has been held by the Apex Court in the case of ***Kranti Associates (P) Ltd. v. Masood Ahmed Khan*** reported in ***(2010) 9 SCC 496***. The relevant paragraph is reproduced hereinbelow:

“47. Summarising the above discussion,

this Court holds:

(a) In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.

(b) A quasi-judicial authority must record reasons in support of its conclusions.



(c) Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.

(d) Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.

(e) Reasons reassure that discretion has been exercised by the decision-maker on relevant grounds and by disregarding extraneous considerations.

(f) Reasons have virtually become as indispensable a component of a decision-making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.

(g) Reasons facilitate the process of judicial review by superior courts.

(h) The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the lifeblood of judicial decision-making justifying the principle that reason is the soul of justice.

(i) Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.

(j) Insistence on reason is a requirement for both judicial accountability and transparency.

(k) If a judge or a quasi-judicial authority is not candid enough about his/her decision-making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.

(l) Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or "rubber-stamp reasons" is not to be equated with a valid decision-making process.

(m) It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in



decision-making not only makes the judges and decision-makers less prone to errors but also makes them subject to broader scrutiny. (See David Shapiro in Defence of Judicial Candor³²).

(n) Since the requirement to record reasons emanates from the broad doctrine of fairness in decision-making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence. See Ruiz Torija vs. Spain³³ EHRR, at 562 para 29 and Anya v. University of Oxford³⁴, wherein the Court referred to Article 6 of the European Convention of Human Rights which requires, “adequate and intelligent reasons must be given for judicial decisions.”

(o) In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of “due process”.

9. The law in this regard has been laid down by the Apex Court in the Case of ***M/s Magadh Sugar & Energy Ltd. Versus The State of Bihar & Ors.*** reported in ***LL 2021 SC 495***, paragraphs no. 19 and 28 would be relevant in this regard, which is as under:-

“ 19. While a High Court would normally not exercise its writ jurisdiction under Article 226 of the Constitution if an effective and efficacious alternate remedy is available, the existence of an alternate remedy does not by itself bar the High Court from exercising its jurisdiction in certain contingencies. This principle has been crystallized by this Court in Whirlpool Corporation v. Registrar of Trademarks, Mumbai¹⁹ and Harbanslal Sahni v. Indian Oil Corporation Ltd²⁰. Recently, in Radha Krishan Industries v. State of Himachal Pradesh & Ors²¹ a two judge Bench of this Court of which one of us was a part of (Justice DY Chandrachud) has summarized the principles governing the exercise of writ jurisdiction by the High Court in the presence of an alternate remedy. This Court has observed:



“28. The principles of law which emerge are that: (i) The power under Article 226 of the Constitution to issue writs can be exercised not only for the enforcement of fundamental rights, but for any other purpose as well; (ii) The High Court has the discretion not to entertain a writ petition. One of the restrictions placed on the power of the High Court is where an effective alternate remedy is available to the aggrieved person; (iii) Exceptions to the rule of alternate remedy arise where (a) the writ petition has been filed for the enforcement of a fundamental right protected by Part III of the Constitution; (b) there has been a violation of the principles of natural justice; (c) the order or proceedings are wholly without jurisdiction; or (d) the vires of a legislation is challenged; (iv) An alternate remedy by itself does not divest the High Court of its powers under Article 226 of the Constitution in an appropriate case though ordinarily, a writ petition should not be entertained when an efficacious alternate remedy is provided by law; (v) When a right is created by a statute, which itself prescribes the remedy or procedure for enforcing the right or liability, resort must be had to that particular statutory remedy before invoking the discretionary remedy under Article 226 of the Constitution. This rule of exhaustion of statutory remedies is a rule of policy, convenience and discretion; and (vi) In cases where there are disputed questions of fact, the High Court may decide to decline jurisdiction in a writ petition. However, if the High Court is objectively of the view that the nature of the controversy requires the exercise of its writ jurisdiction, such a view would not readily be interfered with.” (emphasis supplied)

10. Now question arises whether this Court can exercise its jurisdiction under Article 226 of the Constitution of India in the facts of the present writ petition in case respondents have acted without jurisdiction. Law in this regard is well settled by the Apex Court in the case of *Assistant Commissioner of State Tax v. M/s Commercial Steel Limited (Civil Appeal No. 5121 of 2021)*. In State of *HP v. Gujarat Ambuja Cement Ltd & Anr., reported in (2005) SCC 6 499* this Court has held that a writ petition is maintainable before the



High Court if the taxing authorities have acted beyond the scope of their jurisdiction. This Court observed:

“23. Where under a statute there is an allegation of infringement of fundamental rights or when on the undisputed facts the taxing authorities are shown to have assumed jurisdiction which they do not possess can be the grounds on which the writ petitions can be entertained. But normally, the High Court should not entertain writ petitions unless it is shown that there is something more in a case, something going to the root of the jurisdiction of the officer, something which would show that it would be a case of palpable injustice to the writ petitioner to force him to adopt the remedies provided by the statute. It was noted by this Court in L. Hirday Narain v. ITO [(1970) 2 SCC 355: AIR 1971 SC 33] that if the High Court had entertained a petition despite availability of alternative remedy and heard the parties on merits it would be ordinarily unjustifiable for the High Court to dismiss the same on the ground of non-exhaustion of statutory remedies; unless the High Court finds that factual disputes are involved and it would not be desirable to deal with them in a writ petition.”

11. It is also to be taken note of that Article 300A of the Constitution of India tends to safeguard the invaluable right to property.

“300-A. Persons not to be deprived of property save by authority of law
No person shall be deprived of his property save by authority of law.”

12. As per the constitutional mandate also, the State cannot disposes a citizen of his property except in accordance with law and procedure prescribed. The obligation to pay compensation is not expressively included in Article 300-A of the Constitution of India can be inferred in that Article. The law



in this regard is well settled by the Apex Court in case of ***Vidaya Devi Vs. The State of Himachal Pradesh & Ors.*** reported in **2020(2) SCC 569**, I find it proper to quote the para-12.1 and 12.2 of the said judgment, which are *inter alia* reproduced hereinafter;

“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 , 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 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”

13. The above proposition of law has again been reiterated by the 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.]”

14. In such circumstances, when the question of right to property as per the provision of Article 300 A of the Constitution of India comes to the knowledge of this Court, this Court has no alternative than to direct the concerned authority to forthwith take action and see that the grievance of the petitioner is redressed well within a period of one week in accordance with law from the date of communication of this order.

15. Considering the aforesaid information, the District Collector- cum - Magistrate, Lakhisarai, is directed to dispose of the representation filed by the petitioner for the relief(s) as prayed for in the present writ petition expeditiously in accordance with law.

16. Accordingly, the present application stands disposed of.

17. Interlocutory Application(s), if any, also stands disposed of.

(Purnendu Singh, J)

Ashishsingh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	07.02.2026
Transmission Date	NA

