

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17719 of 2018

- 1.1. Amita Thakur W/o- R.P. Thakur Resident of Plot No.- 149, Prashashan Nagar, Road No.- 10, Jubilee Hills, Near Club House, Hyderabad, P.S.- Jubilee Hills, District- Hyderabad, Telangana.
- 1.2. Nilesh Kumar S/o Late Shiva Shankar Sharma Resident of Flat No.- 2002, Block- 2, My Home Krishe, Financial, District- Gachibowli, P.S.- Gachibowli, District- Ranga Reddy, Telangana.
- 1.3. Ritesh Kumar S/o- Late Shiva Shankar Sharma Resident of Pakka Kuan Lane, Mahendru, Patna, P.S.- Sultanganj, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Rural Works Department, Govt. of Bihar, Patna.
2. The Principal Secretary, Rural Works Department, Govt. of Bihar, Patna.
3. The District Magistrate, Patna.
4. The Chief Engineer, Rural Works Department, Govt. of Bihar, Patna.
5. The Executive Engineer, Rural Works Department, Works Division, Danapur, Bihar Rural Road Development Agency, Patna.
6. The District Land Acquisition Officer, Patna.
7. The Additional Secretary-cum- Additional Chief Executive Officer, Bihar Rural Road Development Agency, Patna.
8. Circle Officer, Phulwarisharif, Patna

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Anil Singh, Advocate Mr.Sanjeet Kumar Singh, Advocate
For the State	:	Mr.Manish Kumar, AC to Ex.AAG-06

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

5 27-01-2026 Learned counsel for the petitioners pray for and is allowed to implead the Circle Officer, Phulwarisharif, Patna as respondent no.08 in course of the day.

2. Heard Mr. Anil Singh, learned counsel for the



petitioners and the State.

3. The present petition has been preferred for the following relief/s:

(i) for commanding the respondents to forthwith vacate the land of the petitioner bearing plot no.8, 233 and a portion of plot no.12, Thana no.58, situated in Mauza- Abbupur-Lodipur in the District of Patna, which has been used for widening and reconstruction of Koriyama Pul to Muradpur Road Measuring 3.150 K.M. without permission and without acquiring the same after following the due process of law as prescribed under the Bihar Land Acquisition Act;

(ii) for further commanding the respondents to alternatively pay compensation as per the Land Acquisitions Act, for using the land of the petitioner for reconstruction widening of Koriyama Pul to Muradpur Road;

(iii) for grant of any other relief/reliefs for which the petitioner may be found entitled



to.

4. The petitioners own the land (as recorded above in the prayer portion) in the district of Patna and the claim is that the plot nos. 8, 233 are their ancestral land registered in the name of the grand father of the petitioner nos. 1.2 and 1.3 namely Mahendra Singh and after his death, it came in the possession of the petitioners late father and his elder brother, Uma Shankar Singh who were paying the rents.

5. The contention in the writ petition is that when the family went to village home, found the pitch road constructed from **Koriyama Bridge to Muradpur measuring 3.150 kilometers**. It was informed that the construction has been undertaken by the **Rural Works Department, Patna through the Contractor, S.B. Engicon Private Limited** under the **Mukhya Mantri Gram Sampark Yojna** (henceforth for short 'the Yojna')

6. It has been alleged in the writ petition that the said road has been constructed on their ancestral land without any approval/permission from them/family members as also without resorting to the Land Acquisition Act and in that background; the prayer is/are that:

(i) since it has been constructed



without permission/compensation, it has to be removed;

(ii) in case, the respondents come to the conclusion that the construction has been made on the ancestral land and the same is essential for the general people, they have to resort to the Land Acquisition Act and pay compensation.

7. It seems that the Executive Engineer (respondent no. 5) before filing the affidavit got an enquiry conducted through the Circle office, Phulwarisharif and learned counsel for the petitioners has taken this Court to the report dated 14.01.2019 to show that the Anchal Amin in his report to the Circle Officer, Phulwarisharif acknowledged the construction on the road on survey plot no. 233 (Annexure-C to the petition) which belongs to the petitioners.

8. The submission is that the report clearly shows that a road has been constructed. However, the concerned paragraph (paragraph-13 of the counter affidavit) records that the land of the petitioners has not been used for the construction of the road in question. This has also been rebutted by the petitioners



in the paragraph-06 of the reply to the counter affidavit.

9. Learned State counsel on the other hand submits that the Executive Engineer in his affidavit has clearly stated that no construction of the road has been made on the land of the petitioners and as such no direction is required.

10. This Court has gone through the facts of the case and the submissions of the parties. The admitted position is that the land in question is/are the ancestral property of the petitioners. The respondents have acknowledged that a road has been constructed under 'the Yojna'. The question that remains unanswered is as to whether the land of the petitioners has been used or not for that purpose and in case, it has been used without any permission or resorting to the Land Acquisition Act; whether an appropriate order has to be passed or not.

11. This Court cannot ignore the report submitted by the Anchal Amin, Circle Office, Phulwarisharif who has acknowledged the construction of road on the plot no.233 belonging to the petitioners. The said report cannot override the contention made in the affidavit that no land of the petitioners has been taken for the construction of the road.

12. There is claim by the petitioners which stands supported by the Anchal Amin's report whereas there is counter



claim by the respondent, the Executive Engineer denying the existence of the road on the petitioners' land.

13. In that background, in the opinion of the Court, the Collector, Patna (respondent no. 3) has to look into the matter and after noticing/hearing the parties is duty-bound to pass a reasoned order.

14. Before hearing the parties, the Collector, Patna shall ensure that a fresh enquiry is undertaken regarding the claim/counter claim in the presence of the petitioners (their representative) and the Executive Engineer, Rural Works Department, Works Division, Danapur.

15. In case, the fresh report submitted before the Collector, Patna shows presence of the road on the ancestral land of the petitioners, he/she shall be duty bound to come to the conclusion on the point as to:

(i) whether the respondents are going to remove the road;

(ii) if the road so constructed is in the public interest;

(iii) whether the petitioners are entitled to the appropriate compensation or not.



16. In case, the Collector, Patna gives direction for the removal of the road existing on the ancestral land of the petitioners, the responsibility must be fixed and the amount so invested in the construction of the road has to be released from the pockets of the Officers who without resorting to the Land Acquisition Land, constructed the road there. This observation will come into existence only if the Collector, Patna comes to the conclusion that the road has been constructed on the ancestral land of the petitioners and needs to be removed.

17. The entire process has to be completed at an earliest preferably within a period of six months from the date, the petitioners prefer a proper petition with supporting documents before the concerned respondents.

18. The writ petition is disposed of with the aforesaid observation.

(Rajiv Roy, J)

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