

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14927 of 2021

Suresh Lal Das Son of Late Baidyanath Lal Das Resident of Village- Ranway,
P.O.- Keoti Ranway, District- Darbhanga at present residing at PNT Colony,
Beladullah Belashankar, Belauna, Darbhanga, Bihar- 846006.

... .. Petitioner/s

Versus

1. The State of Bihar Through its Chief Secretary, Government of Bihar, Patna.
2. The Commissioner Darbhanga Division, Darbhanga.
3. The Collector Darbhanga.
4. The District Development Commissioner Darbhanga at Laheriasarai.
5. The Anchal Adhikari Keoty Anchal, District- Darbhanga.
6. The Mukhiaya Gram Panchayat Raj, Keoty, P.O.- Keoty, District- Darbhanga.
7. Nasra Begum Wife of Badre Alam Mukhiaya, Gram Panchayat Raj, Keoty, P.O.- Keoty, District- Darbhanga.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Ugranath Mallik, Advocate
For the Respondent/s : Mr. Md. Khurshid Alam, (AAG12)

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 02-02-2026

Heard learned counsel appearing on behalf of the
petitioner and learned APP for the State.

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

“1. That this is an application for issuance of a writ of mandamus directing/commanding the respondents to vacate the raiyati land of the petitioner because the Respondent No.6 i.e. Mukhiya of Gram Panchayat Raj Keoty without notice or written consent wrongly took initiative for encroaching raiyati land and informed the State Officials to sanction the project and to provide fund for making road under Gramin Sarak Yojana or any



other Yojana and also to make payment as compensation by which the respondent authority granted permission to construct the road without any notice or permission or any other relief/reliefs by which the petitioner is entitle to get payment along with pay with 18% interest from the date of making the road.”

3.The brief facts of the case is that the petitioner is the absolute raiyati landholder of land bearing Khata No. 1020, Khesra No. 1800 measuring 16 dhurs, Khata No. 1028, Khesra No. 1839 measuring 1 katha 5 dhurs, and Khata No. 1028, Khesra No. 1848 measuring 13½ dhurs, over which he has never been dispossessed and remains in continuous possession as evidenced by up-to-date rent receipts. The petitioner came to know that the Mukhiya of Gram Panchayat Raj, Keoti, without any authority of law, decided to construct a road by encroaching upon the petitioner's aforesaid raiyati land, which is purely private land and not Aam land nor connected with any public or State purpose. Upon such knowledge, the petitioner raised objections and submitted an application before the Mukhiya on 22.05.2017, followed by repeated representations to the concerned authorities seeking stoppage of illegal construction. When the petitioner further learnt that a proposal had been sent to the State Government for construction of the road over his private land, he served a statutory notice under Section 80 C.P.C. on 02.07.2019; however, instead of redressing the grievance, the authorities proceeded to fix an electric pole over



the petitioner's raiyati land bearing Plot No. 1848. Despite reminders dated 09.09.2019 and 19.02.2020 and subsequent representations before the Divisional Commissioner, Darbhanga on 22.03.2021 and 16.04.2021, no action was taken. The petitioner contends that the respondents have acted in blatant violation of settled principles of law, including the law laid down by this Hon'ble Court in Meira Kumar vs. State of Bihar & Others and the Bihar Litigation Policy, 2009, by encroaching upon raiyati land without consent or acquisition, leaving the petitioner with no other efficacious alternative remedy then to invoke the writ jurisdiction of this Court.

4. Learned counsel appearing on behalf of the petitioner submitted that without consent the Raiyati land of the petitioner appertaining to Khata No.1020, Khesra No.1800, measuring total area 16 Dhur, Khata No.1028, Khesra No.1839 and 1849 measuring 1 Katha 5 Dhur situated in village Keoty, has been illegally acquired for construction of road by the Gram Panchayat, Keoty. The petitioner has filed his objection dated 22.05.2017 (Annexure-A 2 to the writ petition) and the same has not been given effect by the Divisional Commissioner, Darbhanga. The petitioner informs that though he has not challenged the *vires* of Panchayati Raj Department, Resolution



contained in memo no.3578, which he has brought by way of Annexure-10 to the rejoinder challenged by him against controverting the counter affidavit filed on behalf of the respondent nos.3 to 5. Learned counsel submitted that the resolution has not taken into consideration the provisions of Article 243(G) as well as Article 300A of the Constitution of India. It was further contended that the Government policy contained in Memo No. 3578, issued under the scheme *Pradhan Mantri Gram Sadak Yojana*, is *ultra vires* to the Article 300A of the Constitution of India. The said memo does not provide for allocation of funds for land acquisition. Learned counsel further submitted that Memo No. 3578 dated 17.06.2013 contains a prohibition to the effect that, if there is an objection by the owner whose land is sought to be acquired, such land shall not be taken for construction purposes.

5. *Per contra*, learned counsel appearing on behalf of respondent submitted that a counter affidavit has been filed but there is no reference of the Government's decision contained in memo no. 3578 dated 17.06.2013 which dis-entitle the petitioner on the ground that the land of the petitioner has been taken for construction of the road and as such the claim of the petitioner is not fit to be entertained by this Court.



6. Heard the parties.

7. Having considered the rival submissions made on behalf of the parties, I find that the petitioner has brought on record that in village Keoty, the land as described above, over which village road has been constructed, and in light of the prohibition contained in memo no.3578 dated 17.06.2013 that in absence of an objection by the land owner, whose land has been acquired for construction of road, over the land for development of village, cannot be taken away without the consent of the land owner. The petitioner has filed his objection on 22.05.2017 before several authorities and subsequent to that on 16.04.2021 but till date no consideration has been made to his objection application in view of the fact that it has been admitted by the respondent that the road has not been constructed over the petitioner's land. In this regard specific information is contained para 6 to 8 of the counter affidavit which is reproduced hereinafter;

“6. That the matter is concerned with alleged construction over khata No. 1020 Khesra No. 1800, Khata No. 1028, Khesra No. 1839 and 1849, situated in Mauja Keoti Runway, Thana No. 392, Anchal Keoti, Darbhanga.

7. That in the regard a report was called from the Revenue Karamchari (K.C.) cum -C.I. (In-charge) Keoti and he submitted his report on 04.03.2022.

A true photocopy of K.C. dated 04.03.2022 is being annexed herewith and marked as Annexure-A to this counter affidavit.

8. That as per report of K.C. dated



04.03.2022 at present no construction of road has been done at concerned plot and further more no objection certificate, has also not been issued ever by C.O. Office for construction of road over alleged plot.”

8. This Court finds that the Anchal Amin and the Circle Officer, concerned have not given any scientific report in respect of the road which has been constructed particularly in respect of the land which the petitioner has claimed. Admittedly the said road has been constructed as per the *Pradhan Mantri Gram Sadak* Scheme to give employment to the laborers to give due regard to the Government of India scheme Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA), 2005, which is now being replaced by the Viksit Bharat-Guarantee for Rozgar and Aajeevika Mission (Gramin) or VB-GRAM G, 2025. Since the scheme don't gives any power to the Gram Panchayat to construct road where a citizen has objected and in the present case the petitioner has stated that he has filed an objection in respect of the measurement made by the Circle Officer on the basis of report of the Amin which is not founded on the scientific determination because the same is not supported by the number of laborers having worked for construction of the said road and in absence of the measurement Book maintained for giving payment to the laborers on the basis of Geo-tagging of the area, I don't find the report as submitted



by the Circle Officer is convincing.

9. The Gram Panchayat has its due jurisdiction under Article 243-G of the Constitution of India. Article 243G is in respect of local self-governance and not in respect of the subject “Land”. Its inherent jurisdiction is contingent upon the extent of power, specifically endowed by the State Legislature under Entry 5 of List II, making the formal devolution of the Eleventh Schedule subjects a prerequisite for any exercise of administrative or statutory functions, the enabling provisions are further subject to the conditions, as may be specified. Therefore, it is for the State Legislature to consider conditions and to make laws accordingly. In terms of Article 300-A of the Constitution of India, so as to not deprive a citizen from his property which can be acquired only by following due process of law.

10. The Co-ordinate Bench of this Court in ***CWJC No. 8319 of 2013 (Smt. Meira Kumar vs. The State of Bihar & Ors.)*** has though directed the State to consider the objection and maintain *status quo* in such cases, without considering the limited jurisdiction of the Gram Panchayat function and implementation of the scheme and without taking into consideration of the mandate of Article 243-G of the Constitution of India. In the present case the scheme which has



to be implemented for the construction of the road in the village, in spite of the objections, no action was taken, forcing the petitioner to file the present writ petition. However, now in the counter affidavit it has been admitted that till date no road has been constructed.

11. At the same time, this Court observes that the memo no.3578 dated 17.06.2013 has been issued ignoring the mandate of the right of a citizen contained in Article 300 A of the Constitution of India and dispossessing the citizen from his property, even though he has consented to the same, is against the provision enshrined under Article 300 A of the Constitution of India, which tends to safeguard the invaluable right to property.

12. In such circumstances, as till date it is admitted that the road has not been constructed unauthorizedly over the land belonging to the petitioner, this Court is constrained to discuss the question of payment of compensation, in view of discussion made hereinabove. However, the petitioner, if so desire, may avail appropriate remedy in accordance with law, if he is aggrieved for any action of the State Government or of the Union of India.

13. Accordingly, the present application stands



disposed of.

(Purnendu Singh, J)

Ashishsingh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17.02.2026
Transmission Date	NA

