

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19292 of 2024

1. Ashok Rai @ Ashok Ray Son of Late Rajendra Ray Resident of Village and P.O. and P.S. and Dist.- Vaishali.
2. Ram Sunder Ray, Son of Late Ram Vilash Ray Resident of Village and P.O. and P.S. and Dist.- Vaishali.
3. Rajkishore Ray, Son of Late Diplal Ray Resident of Village and P.O. and P.S. and Dist.- Vaishali.

... .. Petitioner/s

Versus

1. The Union of India through the Secretary, Ministry of Road Transport and Highways.
2. The Chief General Manager, National Highway Authority of India, Regional Office, Patna.
3. The Regional Director, National Highway Authority of India, Regional Office, Patna.
4. The Project Director, National Highway Authority of India, Motihari.
5. The District Land Acquisition Officer, Muzaffarpur.
6. The District Magistrate, Muzaffarpur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Sunil Kumar, Advocate
For the State	:	Mr. Amit Bhushan, AC to GP-17
For the NHAI	:	Dr. Maurya Vijay Chandra, Advocate
		Mr. Gaurav Govinda, Advocate
		Ms. Preety Ranjan, Advocate
For the UOI	:	Mr. Arun Kumar Satyamurti, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

7 13-03-2026 Heard Mr. Sunil Kumar, learned counsel for the petitioners, Mr. Amit Bhushan, learned State counsel and Dr. Maurya Vijay Chandra for the National Highway Authority of India (for brevity, '**the NHAI**')

2. The present petition has been preferred for the following relief(s):



“for issuance of a writ in the nature of writ of Certiorari quashing Notification No. S.O. 2724(E) dated 14.06.2022, published in "Prabhat Khabar" and "Hindustan" by the competent authority of the Ministry of Road Transport and Highways, Government of India under sub-section (1) of Section 3A of the National Highways Act, 1956, in respect of the land of the petitioners bearing Khesara No. 233, 243, 245, 248, 249, 253, 254, 259, 260, 261 and 262 situated at Manikpur village by which the NHAI has acquired the entire area of their lands by altering in the earlier alignment/Map in favour of "Blue Lotus Hotel" to benefit the owner thereof whose small part of the property would be acquired if the original alignment is executed for the purpose of construction, maintenance, management of four-lane National Highway between Patna-Sahebganj corridor- Adalwari-Manikpur section (Starting at Bakarpurhat NH-19 Bypass and ending at Manikpur) in the stretch of land from Km. 0 (Bakarpurhat) to Km.38.646 (Manikpur) in the



district of MUZAFFARPUR in the state of BIHAR in pursuance of Notification No. 2456(E) dated 22nd June 2021 and further issuance of a writ in the nature of writ of Mandamus directing the respondents to construct/build-up the four-lane road in accordance with the earlier Survey and measurement done in pursuance of Notification No. 2456(E) dated 22nd June 2021. And/or pass such other order or orders, directions to which the petitioners are entitled.”

3. The details of the land has been incorporated in prayer portion itself, as recorded above which is under Manikpur Village in the District of Muzaffarpur.

4. The Ministry of Road Transport and Highways (for brevity ‘**the MOTH**’) came up with the notification dated 21.06.2021 which is for the maintenance, management and operation of the **Bharat Mala Patna Sahebganj Corridor-Adalwari-Manikpur** section starting at **Bakarpurhat NH-19 bypass and ending at Manikpur**.

5. Parts of the aforesaid land of the petitioners were published in the said notification dated 21.06.2021 inviting objections from the date of publication of the notification under



sub section 1 of the Section 3 of the National Highways Act, 1956 (henceforth for short, '**the Act**').

6. The record shows that subsequently on 29.10.2021, '**the MOTH**' came up with another notification to incorporate further lands of the land holders which included the lands of the petitioners as recorded in paragraph-1 of the writ petition. Once again, the objections were invited.

7. After going through the objections and disposing it of, finally, '**the MOTH**' came up with the notification dated 14.06.2022 and it records that the objection so filed were considered and disallowed and the report submitted by the competent authority thereafter under Sub Section 1 of the Section 3(d) of the '**the Act**'. This followed the declaration of the acquisition of the land in question.

8. The further case is that the petitions were preferred by the petitioners before the District Magistrate, Muzaffarpur as also the District Land Acquisition Officer, Muzaffarpur on 25.01.2023 which followed the present writ petition.

9. The contention of the petitioners is/are that though they had knowledge about the first notification dated 21.06.2021; they were completely blacked out so far as the second notification dated 29.10.2021 is concerned. Further, the



contention is that the second notification has been brought on record in order to benefit the owner of 'Blue Lotus Hotel' and to protect his portion of land from the acquisition.

10. The case of the petitioner is/are that:

“(i) since 4 decimal of the Blue Lotus Hotel was required in the earlier notification dated 21.06.2021, to save the same, the second notification has come by which 66 decimals of the petitioners' land is/are being taken;

(ii) the alignment has been made only to oblige the said owner of the Blue Lotus Hotel, in that process, the alignment of the sixty years old State Highway road has also been changed and

(iii) the legal procedure has not been followed.”

11. Dr. Maurya Vijay Chandra represents '**the NHAI**' and has filed affidavits. Learned counsel at the outset makes preliminary objection that the entire story revolves around the Blue Lotus Hotel and the allegation is that to benefit and to save the small portion of the said Hotel, '**the MOTH**' changed the alignment which followed the second notification.

12. He submits that surprisingly, the Blue Lotus



Hotel/its owner has not been made party-respondent in the present case. In that background, the petition is fit to be dismissed for non joinder/misjoinder of parties.

13. Learned counsel in support of his contention has cited the case of **Hon'ble Supreme Court in Mumbai International Airport Pvt. Ltd vs Regency Convention Centra & Hotels Private Limited & Ors. reported in (2010) 7 SCC 417.**

14. The order in **Mumbai International Airport Pvt. Ltd. (supra)** has further been quoted in another case of **Hon'ble Supreme Court in Moreshar Yadaorao Mahajan vs Vyankatesh Sitaram Bhedi (D) reported in 2022 SCC online SC 1307 and paragraphs 17 and 18** read as follows:

"17. This Court, in the case of Mumbai International Airport Private Limited (supra), has observed thus:

"15. A "necessary party" is a person who ought to have been joined as a party and in whose absence no effective decree could be passed at all by the court. If a "necessary party" is not impleaded, the suit itself is liable to be dismissed. A "proper party" is a party who, though not a



necessary party, is a person whose presence would enable the court to completely, effectively and adequately adjudicate upon all matters in dispute in the suit, though he need not be a person in favour of or against whom the decree is to be made. If a person is not found to be a proper or necessary party, the court has no jurisdiction to implead him, against the wishes of the plaintiff. The fact that a person is likely to secure a right/interest in a suit property, after the suit is decided against the plaintiff, will not make such person a necessary party or a proper party to the suit for specific performance."

18. It could thus be seen that a "necessary party" is a person who ought to have been joined as a party and in whose absence no effective decree could be passed at all by the court. It has been held that if a "necessary party" is not impleaded, the suit itself is liable to be dismissed."

15. Learned counsel also wanted this Court to take note of **paragraph nos. 7, 9 and 11** of the counter-affidavit to support his contention that due process has been followed in the



requisition process. It read as follows:

“7. That the NHAI is a professionally managed statutory body having expertise in the field of development and maintenance of national highways with persons of vast knowledge and expertise in infrastructure field. The Hon'ble Supreme Court in Union of India vs. Kushala Shetty and Ors. (2011) 12 SCC 69 has observed the narrow scope of judicial review. The relevant portion of the judgment is reproduced herein below:

"28. NHAI prepares and implements projects relating to development and maintenance of National Highways after thorough study by experts in different fields. Detailed project reports are prepared keeping in view the relative factors including intensity of heavy vehicular traffic and larger public interest. The Courts are not at all equipped to decide upon the viability and feasibility of the particular project and whether the particular alignment would subserve the larger public interest. In such matters, the scope of



judicial review is very limited. The Court can nullify the acquisition of land and, in rarest of rare cases, the particular project, if it is found to be ex-facie contrary to the mandate of law or tainted due to mala fides."

*9. That the petitioner has no cause of action to file the instant writ petition as the averments made in the present writ petition alleging malafide are bald without any specific reasons assigned to the allegation. The mere fact that change in the alignment will benefit a party is baseless in absence of specific material to show malafide. The Hon'ble Supreme Court in **E.P. Royappa vs. State of T.N. (1974) 4 SCC 3** has stated as below:*

"92. Secondly, we must not also overlook that the burden of establishing mala fides is very heavy on the person who alleges it. The allegation of mala fides are often more easily made than proved, and the very seriousness of such allegations demands proof of higher order of credibility."



*11. That the Hon'ble Supreme Court in **Project Director Project Implementation Unit vs. P.V. Krishnamoorthy & ors. (2021) 3 SCC 572** has held as following:*

"63.3. It is true that the Project (Bharamala Pariyojna Phase I) was conceived after a scientific study as a comprehensive project at the macro (national) level for 24,800 kms. in Phase I, spanning over a period of 5 years (201718 to 202122) at an estimated outlay of INR 5,35,000 crores with an objective to improve the efficiency of freight and passenger movement across the country by bridging critical infrastructure gaps through effective interventions like development of Economic Corridors, Inter Corridors and Feeder Routes (ICFR), National Corridor Efficiency Improvement, Border and International connectivity roads, Coastal and Port connectivity roads and Greenfield expressways. This Project, being a macro level project, does not reckon the nuanced imperatives of a particular region or area, which may only be a miniature of the whole Project



traversing across around 24,800 kms. in Phase I.

Hence, it is humbly submitted that on a larger scale where alignments were either approved/changed by the competent authority, the same was carried out in line with the objectives of Bharatmala project and without influence of single landowner/s.”

16. The further submission is that on 21.06.2021, the first notification came which included part of the petitioners' land; objections were invited and it is not the case of the petitioners that they ever submitted any objection.

17. Subsequently, the second notification came on 29.10.2021 and again, the petitioners chose to look the other way. After going through the objections and disposing it of, the final notification came on 14.06.2022.

18. The submission is that when the petitioners themselves chose not to file any objection despite the notifications issued on 21.06.2021 and 29.10.2021; '**the MOTH**' was fully justified in issuing the notification dated 14.06.2022.

19. The further submission is that earlier, the petitioner took a stand that there is no second notification and



without issuance of any notification, the 14.06.2022 final notification has come. It was an incorrect statement and a deliberate attempt to hoodwink the Court. By way of affidavit, they have brought on record that indeed, the second notification was issued on 29.10.2021 and after objections in both the notifications dated 21.06.2021 and 29.10.2021; the final notification came on 14.06.2022.

20. The further submission is that lots of water has flown down the Ganges since the land of the petitioners' stand acquired. It is high time, that they take legal steps for seeking compensation of the lands in question after showing their *bona fide*.

21. Learned State counsel adopts the submissions put forward by '**the NHAI**'.

22. Having heard the parties and going through the records of the case, this Court has taken note of two facts:

23. Though the petitioner alleged *mala fide* against the officials to be in league with the owner of the Blue Lotus Hotel and only to save his land, the second notification dated 29.10.2021 came into existence, however, neither any Official (by name) nor the owner of the Blue Lotus Hotel have been impleaded as party-respondents in the present case. Clearly, the



petitioners want an order behind the back of the owner of the Blue Lotus Hotel and the first point put forward by the learned counsel for '**the NHAI**' that the writ petition is fit to be dismissed for non-joinder/misjoinder of necessary parties seem to be quite justified.

24. So far as the Second contention of the petitioner that the notification dated 14.06.2022 came into existence without there being any second notification which included further lands of the petitioners, '**the MOTH**' indeed came up with the second notification dated 29.10.2021 to show that it was published and it was only after the objections so received from all the land holders with regard to both the notifications, the final notification was published on 14.06.2022.

25. The petitioners who chose not to file any objection and sat over the matter are themselves to be blamed. It is further clear that knowingly, they suppressed this fact about the second notification while invoking the writ jurisdiction. The petition/representation claim to have been filed is/are belatedly in the year 2023 after the final notification was published on 14.06.2022.

26. Considering the aforesaid facts and taking into account the submissions/documents on record, this Court can



only record that now that the land in question stands acquired and ‘**the MOTH**’ has taken the due legal process before issuance of the notification dated 14.06.2022, the petitioners if so want can take steps for getting the compensation amount in accordance with law after showing their *bona fide* for the land that stands acquired.

27. So far as the writ petition is concerned, it is devoid of any merit and is accordingly dismissed. The interim protection granted to the petitioners stands vacated.

(Rajiv Roy, J)

Adnan/-

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