

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9564 of 2021

Chando Yadav, Son of Gopal Yadav Resident of Village- Salempur, Nauranga,
Police Station- Muffasil, District- Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar, through the Chief Secretary, Government of Bihar, Patna.
2. The District Magistrate, Gaya.
3. The Land Acquisition Officer, Gaya.
4. The Circle Officer, Maupur, Block, Gaya.
5. The Director, National Highway, Government of India, New Delhi.
6. Bihar State Road Development Corporation (BSRDC), Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mrs. Nivedita Nirvikar, Sr. Advocate Mrs. Shashi Priya, Advocate Mr. Shashank Shekhar, Advocate
For the State	:	Mr. Sajid Salim Khan, SC-25
For the Resp. No.6	:	Mr. P.K. Shahi, Sr. Advocate Mr. Manish Dhari Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
CAV JUDGMENT

Date : 27-11-2025

Heard Mrs. Nivedita Nirvikar, learned Senior Counsel, assisted by Mrs. Shashi Priya, appearing for the petitioner, Mr. Sajid Salim Khan, learned SC-25, appearing for the State-respondents, and Mr. Manish Dhari Singh, learned counsel, appearing for Respondent No. 6.

2. The instant writ petition has been filed by the petitioner under Article 226 of the Constitution of India, seeking the following reliefs:—



“ (i) For issuance of a writ in the nature of writ of certiorari for quashing of the notification contained in the Gazette of India dated 31st January, 2019 issued from the Road Transport and Highway Ministry, Government of India, New Delhi, published in the Hindu daily "Hindustan" on 26th April, 2019, whereby the land of petitioner mentioned at Serial No. 103 in the village-Salempur having an area of 0.5348 Hectare Plot No. 102 has been declared as Gairmajarua (Govt. Land) while in earlier notification published by the Govt. of Bihar in the newspaper dated 10.06.2018 the aforesaid land was declared as private land required to be acquired for construction of National Highway No. 82 (Gaya Hisua Rajgir Bihar Sharif, Section).

(ii) For issuance of a writ of mandamus directing the Respondent Authorities to make necessary correction in the Gazette Notification dated 31.01.2019 and award compensation to Petitioner for acquiring his land mentioned at Serial No. 103 of aforesaid notification.

(iii) For issuance of a writ of mandamus directing the concerned authority to measure the land acquired for construction of National Highway 82 as per the sanctioned map without causing prejudice to any other residents of the locality.

(iv) For grant of any other relief or reliefs the Petitioner may be found entitled in the facts and circumstances of the case.”

3. Mrs. Nivedita Nirvikar, learned senior counsel appearing for the petitioner, has argued that for the construction of National Highway No. 82 (Gaya–Hisua–Rajgir–Bihar Sharif Section), the land of the petitioner, which falls in Village Salempur, Police Station Mufassil, in the District of Gaya, was



said to be acquired vide notification of the Government of Bihar published in the newspaper on 10th June, 2018. In the said notification, the petitioner's land finds place at Serial No. 10, the nature of which was shown as private land, and a copy of the notification has been filed before this Court as Annexure-1. Subsequently, on 26.04.2019, in the Hindi newspaper namely *Hindustan*, the Gazette of India was published, in which it was specifically mentioned that after the publication of the said Gazette notification, the land mentioned would vest in the Central Government. The petitioner's land finds place at Serial No. 103 in the said notification, but the nature of the land was shown as *Gairmajarua* (Government Land) in the notification, while in the earlier notification, the petitioner's land was marked as private land. The petitioner was unaware of the new development and was waiting for notice from the competent authority of NH-82 for the payment of compensation in lieu of the acquisition of his land. It has been further submitted that the grandfather of the petitioner, namely Late Banwari Mahto @ Banwari Yadav, got his title in the land in question through settlement pertaining to Khata No. 73, Plot No. 102, having an area of 3.44 acres, from the ex-landlord, namely Govind Lal Nakfofa, and the ex-landlord had filed Compensation Case No. 105/2016, 53-54, in which the



grandfather of the petitioner was mentioned as a settled *raiyat*. It has been further submitted that for the construction of an over-bridge at River Falgu, some portion of the land of Plot No. 102 was acquired in the year 1981, for which the petitioner's uncle, namely Muni Yadav, was given compensation (award) vide Land Acquisition Case No. 5 filed by the State Government on 22.08.1996. The land concerning Plot No. 102 of Khata No. 73 was recorded in the government records in the name of the petitioner's grandfather, but suddenly the mutation was cancelled on 14.05.2020 by the Circle Officer, Manpur, Gaya, against which the petitioner's aunt, namely Late Puniya Devi, preferred Mutation Appeal No. 30 of 2011-12/51 of 2010-11 before the Deputy Collector, Land Reforms, Gaya (in short, "DCLR, Gaya"). The appeal was decided in favour of the petitioner's aunt, and the DCLR, Gaya, in his order dated 15.06.2011, directed that the demand with respect to the land of Khata No. 73, Plot No. 102, having an area of 3.72 acres, would continue in the name of the petitioner's aunt. Thereafter, the son of the ex-landlord preferred a revision before the Additional Collector, Gaya, vide Revision Case No. 210 of 2011-12, against the order dated 15.06.2011 passed by the DCLR, Gaya, in Mutation Appeal No. 30 of 2011-12/51 of 2010-11, but that revision was dismissed by the Additional



Collector, Gaya, vide order dated 24.07.2014 (Annexure-3). Learned counsel has further argued that when the officials of NH-82 came to the petitioner's land for measuring it for the purpose of acquisition, the petitioner came to know that in the Gazette notification, his land had been wrongly mentioned as *Gairmajarua* land. He then met the respondent authorities to make the necessary correction so that he could get compensation, but his request fell on deaf ears, and finally, on 23.01.2021, the petitioner wrote to the District Magistrate, Gaya, by way of Annexure-4. It has been further submitted that the petitioner has sold some part of his land of Plot No. 102 to different persons who have got their mutation done in connection with their purchased land, but all of a sudden, in the month of February 2021, the measurement of their land was commenced, and the land of the purchasers too was marked to be acquired, while in the sanctioned map for acquisition of land, the purchasers' land was exempted. It has been lastly submitted that after filing this writ application, from Annexure-B to the counter-affidavit filed by the State-respondents, the petitioner came to know that a committee consisting of the Land Acquisition Officer, Gaya, Circle Officer, Manpur, DCLR, Sadar Gaya, and Deputy Collector, Gaya, had recommended cancellation of the *Jamabandi* of the petitioner's land. Therefore, by filing I.A. No. 01/2022, the



petitioner has also prayed to set aside the said report dated 26.08.2021, which has been prepared and given completely in a biased manner after the filing of this writ application, and further, the petitioner was not given an opportunity of hearing by the said four-member committee.

4. On the other hand, Mr. Sajid Salim Khan, learned Standing Counsel-25, appearing for the State-respondents, has argued that from a perusal of the order dated 24.07.2014 passed by the Additional Collector, Gaya, in Revision Case No. 210/11-12, it is clearly apparent that the claim of the petitioner's grandfather in respect of the land in question was on the basis of a settlement which is said to have been made in the year 1938, whereas the claim of the descendants of the ex-landlord of the petitioner's grandfather was that the said land was acquired by the ex-landlord through an unregistered sale deed in the year 1945, as such, there was no question of a settlement in the year 1938. After the passing of the order dated 24.07.2014 in revision, both the parties, i.e., the descendants of the ex-landlord and the descendants of Banwari Mahto @ Banwari Yadav, colluded with each other and illegally and jointly sold the land of Plot No. 102 to one Mukesh Kumar through a registered sale deed, which is the subject matter of CWJC No. 12610/2021, and from the recital of the said sale deed,



the contradictory claims of the vendors are apparent. A copy of the sale deed has been filed as Annexure-A to the counter-affidavit. It has been further argued that the matter with respect to the land of Plot No. 102 appertaining to Khata No. 73 was enquired into by the ADM, Gaya, DLAO, Gaya, DCLR, Sadar Gaya, and Anchal Adhikari, Manpur, Gaya, who jointly submitted their report dated 26.08.2021 (Annexure-B), and the said committee concluded that at the time of publication of the notification for acquisition of the land in question, the recorded *raiyat* was Chaman Lal Khatik. However, on enquiry, no evidence was available to show how his name was recorded in the *Khatiyani*. From a perusal of the record of Compensation Case No. 105/16 53–54, it appeared that the land of Plot No. 102 under Khata No. 73 was recorded as *Gairmajarua Malik*; as such, all the members of the committee came to the conclusion that the *Jamabandi* and State rent receipts concerning the land in question are suspicious, and therefore, they have recommended taking steps for the cancellation of the *Jamabandi*, and there is no illegality in the same.

5. Mr. Manish Dhari Singh, learned counsel appearing for respondent no. 6, has argued that the land plots in question were published as *Gairmajarua* by the notification of the Government of India, and the information regarding the type of



land was taken from the available land revenue records on the day of publication of the notification. Hence, there is no need to quash the said notification. The nature of the land concerning Khata No. 73, Plot No. 102, situated at Mauza–Salempur, Circle–Manpur, is mentioned as common (*Gairmajarua Parti Kadeem*) in the revenue record, and on that basis, the notification under Section 3A of the National Highways Act, 1956 (in short, ‘N.H. Act, 1956’), was published in the Official Gazette on 11.04.2018.

6. I have heard both sides, perused the relevant materials, and gone through the averments made in this writ petition as well as the averments made in the counter-affidavit and rejoinder to the counter-affidavit, etc. As per Section 3A of the N.H. Act, 1956, when a land is required for the purpose of construction of a National Highway or part thereof by the Central Government, then by notification in the Official Gazette, the Central Government shall declare its intention to acquire such land, and every such notification shall give a brief description of the land. It has been revealed by the learned counsel appearing for Respondent No. 6 that the notification under Section 3A was published in the light of the nature of the land available and shown in the land revenue records on the date of publication of the notification. The fact regarding the land’s nature as being



Gairmajarua in the revenue record on the date of publication has not been denied by the petitioner, hence, there is no illegality on the part of Respondent No. 6 while publishing the alleged notification dated 31.01.2019. Further, after the publication of the said notification, the petitioner did not raise any objection under the provisions of Section 3C of the N.H. Act, 1956, within the prescribed limitation period, which goes against him. Though, as per the petitioner, some part of the same plot had been acquired earlier for which compensation had also been given to the petitioner's relative, but merely on said ground, the petitioner's title in the land in question cannot be said to be completely undisputed. For getting compensation in respect of a land that is to be acquired by the government authority, one has to show one's right and title to be completely undisputed. In the present matter, as per Annexure-B annexed with the counter-affidavit of the State-Respondent Nos. 2 to 4, an enquiry committee consisting of four administrative officers concluded that the title of one Chaman Lal Khatik was suspicious, as from the revenue records no documentary evidence was found showing the old *Khatiyani* being in the name of the said Chaman Lal Khatik, and considering this aspect, the said committee recommended the cancellation of the *Jamabandi* of the land in question. Though the said committee did



not give an opportunity of hearing to the petitioner, which was not proper, and by way of interlocutory application the petitioner's counsel has taken the plea that the said committee was constituted with *mala fide* intention after filing this writ application to frustrate the petitioner's claim, however, the petitioner has an efficacious remedy under the Bihar Mutation Act, 2011, to challenge the said recommendation or any further proceeding or order on the basis of that recommendation. One thing is quite clear that the instant matter involves disputed questions of title which require evidence, for which the proper remedy available to the petitioner is before the Civil Court, as only after getting a declaration of his title by competent court in the land in question, the petitioner will be entitled to get compensation for the land in question. By filing an interlocutory application the petitioner has made an additional prayer for setting aside the report dated 26.08.2021 given by above-mentioned Committee by which a recommendation to cancel the mutation of land in question has been made. But this prayer is premature for consideration by this Court under writ jurisdiction as it is not the case of the petitioner that in the light of the said recommendation mutation has been cancelled, if has been been cancelled even then the petitioner has an efficacious alternative remedy of appeal and further revision



etc., so, the prayer made by petitioner in this application is not acceptable at this stage.

7. Accordingly, this Court finds no merit in this writ petition, therefore it stands dismissed and pending applications, if any, stand disposed of.

(Shailendra Singh, J)

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AFR/NAFR	AFR
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