

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12244 of 2021

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1. Angad Kumar @ Angad Prasad yadav S/o-Sri Siya Saran Prasad, R/v-Pabhera, P.O.-Pabhera, P.S.-Dhanarua, Distt.-Patna.
 2. Brij Bhushan Kumar S/o-Indradeo Yadav R/v-Lachhu Bigha, P.S.-Dhanarua, Distt.-Patna.
 3. Shashi Bhushan S/o-rameshwar Prasad Singh R/v-Mahmadpur, P.S.-Dhanarua, Distt.-Patna.

... .. Petitioners

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Road Construction Department, Government of Bihar, Patna.
3. The Project Director, National Highway Authority of India, Project Implementation Unit, Gaya House No.-70/224 West Jagjivan Road, Judicial Quarter, Chanakyapuri Colony, Gaya-823001.
4. The Regional Director, National Highway Authority, D-63, First Floor, Sri Krishnapuri, Boring Road, Patna-800001.
5. The District Magistrate, Patna, Bihar.
6. The District Land Acquisition Officer, Patna, Bihar.
7. The Assistant Director Land and Acquisition Officer, Bihar.
8. The Additional Collector, Land and Revenue, Bihar, Patna.

... .. Respondents

Appearance :

For the Petitioners	:	Mr.YC Verma, Senior Advocate Mr. Ashok Kumar, Advocate
For the State	:	Ms/Mrs. Pushpanjali Sharma, AC to SC 20
For the NHAI	:	Mr. Kumar Gautam, Advocate

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL JUDGMENT

Date : 01-02-2024

Heard learned counsel for the parties.

2. Writ petition has been filed for a direction to the respondents to cancel the new alignment of Jai-Nagar Aurangabad North-South Corridor (Bharat Mala Sringkhala) running through the Pabhera Mauza, P.S.-Dhanarua, Distt.-Patna and to accept the previous alignment of the same road



passing through the village- Pabhera considering the unnecessary encroachment of the land of the petitioners including the land of the villagers.

3. In this case, counter affidavit has been filed on behalf of respondents no. 3 and 4. In paragraph 5 thereof, it has been stated that in the matter 3A Gazette Notification was done vide S.O. No. 3244(E) dated 23-09-2020 and 3D vide S.O. No. 1311 (E) dated 24-03-2021 and after publication of Gazette u/s 3D of the NH Act, land vested in the Central Government free from all encumbrances. A photo copy of the Gazette Notifications vide S.O. No. 3244(E) dated 23-09-2020 and 3D vide S.O. No. 1311 (E) dated 24- 03-2021 is contained in Annexure R 3& 4-1 & 1A to the Counter affidavit.

4. Law is well settled that 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. Reference is made to the decision of the Hon'ble Supreme Court rendered in case of **Union Of India vs Kushala Shetty & Ors** reported in (2011) 12 SCC 69.

Paragraph 24 of the judgment is reproduced herein



below for easy reference:-

“Here, it will be apposite to mention that NHAI is a professionally managed statutory body having expertise in the field of development and maintenance of National Highways. The projects involving construction of new highways and widening and development of the existing highways, which are vital for development of infrastructure in the country, are entrusted to experts in the field of highways. It comprises of persons having vast knowledge and expertise in the field of highway development and maintenance. 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. In the case in hand, neither any violation of mandate of the 1956 Act has been established nor the charge of malice in fact has been proved. Therefore, the order under challenge cannot be sustained.”



5. Having heard learned counsel for the parties and having perused the materials available on record and the law laid down by the Hon’ble Supreme Court in the case of **Union Of India vs Kushala Shetty & Ors (supra)**, I do not find any merit in the writ petition. It is accordingly, dismissed.

(Prabhat Kumar Singh, J)

Shashi

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	2.2.2024
Transmission Date	2.2.2024

