

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12769 of 2023

Sanjeev Kumar Son of Late Nageshwar Sah, resident of village - Pakari Pakohi (Pakohi Khas), P.S. - Karja, District - Muzaffarpur.

... .. Petitioner/s

Versus

1. The Union of India through Principle Secretary, Ministry of Road Transport and Highways.
2. The Chairman, National Highway Authority of India, New Delhi.
3. The Collector, Muzaffarpur.
4. The District Land Acquisition Officer, Muzaffarpur.
5. The Circle Officer, Marwan Circle, Muzaffarpur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Sunil Kumar, Advocate
For the Respondent/s : Mr. Birendra Prasad Singh, AC to SC-19
For the NHAI : Mr. Saket Tiwary, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 07-07-2026 Heard Mr. Sunil Kumar, learned counsel for the petitioner, Mr. Birendra Prasad Singh, AC to SC-19 and Mr. Saket Tiwary, learned counsel representing the National Highway Authority of India (for brevity, 'the NHAI').

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

“to issue a writ in the nature of mandamus directing and commanding the respondent concerned to construct the temple of Lord Shiva in plot No. 653 measuring an area 3 decimal in village (Mauza) Pakohi khas for which



bhumi puja has already been done by the concerned authority of NHAI in the year 2015, as the temple of Lord Shiva situated in plot No. 662 khata No. 151, Mauza Pakohi Khas which was constructed bay back in the year 1984 has been acquired by the NHAI for construction of 4 lane road NH 77 (Hajipur - Muzaffarpur section) as per the policy of NHAI.

(a) Further commanding and directing the respondent authorities to construct the new temple within reasonable time frame before demolishing the old one so that the holy idols of Lord Shiva and others gods and goddess could be placed in sanctum sanatorium and daily worship could be take place without any hindrance.

(b) For that concerned respondent authority be directed to not make any unnecessary and un called hindrance in construction of new holy temple so that could offer their prayers without any objection from any corner.

(c) That any other writ/writs, order/orders, direction/directions may be issued as



your lordship may deem fit and proper.”

3. The matter relates to a piece of land having following details:

*“Khata No. 151;
Khesra No. 662;
Area- 0.56 decimal;
Mauza- Pakohi Khas;
Anchal- Marwan;
District – Muzaffarpur.”*

4. In the year 1984, ‘the NHAI’ proposed the four-lane road between Hajipur-Muzaffarpur section known as National Highway-77.

5. The claim of the petitioner is that pursuant thereto, a notice was issued on **26.04.2010** in the name of his grandfather, and later, after providing the credentials, compensation amount was received. However, the compensation for the Temple (which existed on his land) was never provided. It has been claimed that the then contractor of the project had assured and has also taken steps for the construction of the Temple but later, the respondents chose to look the other way.

6. It seems a notice was issued by the District Land Acquisition Officer, Muzaffarpur on **12.06.2023** (Annexure-4 to the petition) informing the petitioner about payment of



compensation amount for the Temple.

7. However, there is nothing on record to show whether the petitioner presented himself alongwith the documents to satisfy the respondents and/or to receive the compensation.

8. Learned counsel for the petitioner submits that he is least interested in the payment of compensation which in any case was handed over to his ancestor a decade ago. However, as the contractor had assured of construction of the Temple, his prayer is that the respondents should take steps for its construction.

9. A counter-affidavit has been filed by the respondent nos. 3 to 5 duly signed by the District Land Acquisition Officer, Muzaffarpur. Further, it was put on affidavit on 04.12.2024 after service of copies to the parties including the petitioner.

10. Paragraph nos. 7 to 10 of of the counter-affidavit read as under:

“7. That it is further submitted that the said objection petition dated 22-06-2023 of the petitioner was sent to the NHAI Chapra by the DLAO cum Competent Authority, Muzaffarpur vide its Letter No.-1403 dated 26-06- 2023 with request



to let him inform about the statement made in para no.-4 to 9 of attached petition dated 28-06-2023 filed by the petitioner Sri Sanjeev Kumar regarding construction of temple of lord Shiva as stated above, and in response to the said letter of the CALA Muzaffarpur, the Project Director NHAI, Chapra vide its Letter No.-2023/673 informed to the CALA Muzaffarpur regarding point no. 4 to 9 of the letter of the petitioner Sanjeev Kumar that the office of the NHAI Project Implementation Unit Chapra had/ has no information about the construction of temple of lord Shiva as stated by the petitioner in as much as the then appointed concessionaire Associates JV Ashok Kumar has been dismissed/ terminated by concessionaire M/S Patna High Way Project Limited on 02-12-2022, and in view of the same to stand, if any, on assurances, if any made by any person is not competent and authorized by the officials of the NHAI Chhapra.

8. That moreover on the said petition dated 12-06-2023 of the petitioner, a report was



called for from the Departmental Kanoongo, who after spot enquiry submitted a report on 01-07-2023 to the DLAO, Muzaffarpur stating therein that near NH 77 Hazipur Muzaffarpur section, the old Shiva temple is situated in khesra no. 4178 which is P.W.D. road situated in Mouza Pakohi khas, Thana no. 325 and not on khesra no. 656 and 662 as alleged by the petitioner.

9. That moreover a Panchat no. 11 (ka) was prepared in the name of the petitioner Sanjeev Kumar amounting to Rs. 367200/ for the land bearing khata no. 1070, khesra no. 4178 in LA case no. 18/2021-22 and a notice vide Letter No.-387 dated 12-06-2023 was issued by the DLAO Muzaffarpur to the petitioner to attend the office of the DLAO Muzaffarpur on 22-06-2023 with required papers as per the said notice for receiving compensation amount, but when he did not turn over to the said office with the said required papers, then the CALA Muzaffarpur has referred the matter to the District and Session Judge Muzaffarpur vide its Letter No.-1503 dated 06-07-2023 enclosing



entire papers for determination and payment of compensation amount.

10. That in the meantime, the District Magistrate cum Collector, further thought it proper to get the matter reviewed in the light of the points raised by the petitioner in his writ petition, and for that a three man committee was constituted consisting of Additional Collector, land revenue, District Land Acquisition Officer and Land Reforms Deputy Collector, Muzaffarpur, who after enquiry submitted their report on 21-10-2024. who have also confirmed the report of the Amin submitted earlier. It is the fact that the matter is related in between the petitioner and the Authority of the N.H.A.I., Project Director, Chapra therefore in the light of the application of the petitioner vide Office Letter no. 1403 dated 26-06-2023, the said Project Director was communicated with request to clarify the matter in this regard.”

11. The sum and substance of the respondents-authorities is/are that the earlier contractor, JV Ashok Kumar was dismissed/terminated by **M/s Patna Highway Project**



Limited on 02.12.2022 and as such, if any assurance that the petitioner claims to have been given, the same cannot be construed to be an assurance by the respondents and/or has any building on them.

12. The further stand of the State-respondents is/are that a report was called for from the revenue authorities and it has recorded that on khesra no. 4178 which is a PWD road, an old Temple is situated and it is not on khesra no. 656 and 662 as alleged by the petitioner.

13. So far as the notice dated 12.06.2023 is concerned, it has been submitted that an amount of Rs. 3,66,200/- has been prepared and the petitioner was to submit papers to accept the amount. However, as he failed to turn up, the Competent Authority for Land Acquisition, Muzaffarpur (for brevity, 'the CALA') has referred the matter to the Court of learned District Judge, Muzaffarpur vide letter no. 1503 dated 06.07.2023 where the matter is presently pending.

14. In that background, learned State counsel submits that the writ petition is fit to be dismissed with cost as the petitioner has unnecessary invoked the writ jurisdiction demanding construction of the Temple despite receiving the compensation amount earlier.



15. It is to be noted that the counter affidavit filed by the State-respondents have not been rebutted by the petitioner by filing any reply to it despite the affidavit filed in the year 2024.

16. The counter-affidavit of ‘the NHAI’ is also on record after service of copies and paragraph no. 7.9 read as under:

“7.9. In such circumstances, the CALA, Muzaffarpur appointed an authorised surveyor from CALA office to examine the correctness of the land record upon which the Lord Shiva Temple is situated and submit its report. As per the report submitted by an authorized surveyor of the CALA office, Muzaffarpur, it is inferred that the said temple is neither situated on plot no. 656 nor on plot no. 662, but is situated on the plot no. 4178 which is an old PWD Road. Since, the lord Shiva temple is situated on Government Land (PWD Road), therefore, it is not appropriate to pay compensation for its structure to the Petitioner.”

17. The sum and substance of ‘the NHAI’ is that since the Temple is present on the Government land/PWD road, it is not appropriate to pay compensation for the structure to the



petitioner and the matter now stands transferred to the Court of the learned District Judge, Muzaffarpur. This counter-affidavit has been filed on 10.01.2024. Again, there is no rebuttal to it.

18. This Court has recorded the aforesaid fact and the stand of the State-respondents as also 'the NHAI'. Decades ago, the acquisition process took place, the grandfather/father of the petitioner received the compensation amount. A demand for the structure was repeatedly made which followed the notice as recorded above. The petitioner instead invoked the writ jurisdiction.

19. As the petitioner has failed to file any reply to the counter-affidavits filed on behalf of 'the NHAI' as also the State, this Court will have to accept the words that have come from the respondents.

20. Further, it has to be recorded that petitioner having accepted the compensation amount of the land on which he claims a family Temple existed is free to once again construct another temple on his private property. However, it cannot force the respondents to construct a Temple.

21. Taking into account the aforesaid fact, no case is made out for any interference. It is a frivolous petition which has to be dismissed with cost.



22. At this stage, learned counsel for the petitioner submits that cost may not be imposed in the matter.

23. Though, this is an ill advised and frivolous writ petition, accepting the prayer of the learned counsel, this Court refrains from imposing the cost.

24. The writ petition stands dismissed. No cost.

(Rajiv Roy, J)

Adnan/-

| | | | |
|---|--|--|--|
| U | | | |
|---|--|--|--|

