

**Court No. - 21**

**Case :-** WRIT - C No. - 9025 of 2022

**Petitioner :-** Vinay And 8 Others

**Respondent :-** State Of U.P. And 5 Others

**Counsel for Petitioner :-** Shyam Sunder Yadav, Arvind Kumar Singh

**Counsel for Respondent :-** C.S.C., Om Prakash Mishra, Raghav Dwivedi, Sudheer

**Hon'ble Manoj Kumar Gupta, J.**

**Hon'ble Donadi Ramesh, J.**

1. Heard learned counsel for the petitioners, Sri Rajiv Gupta, learned Additional Chief Standing Counsel for the State-respondents, Sri Sudheer Mishra, learned counsel for respondent no.5 and Sri Om Prakash Mishra, learned counsel for respondent no.6.
2. The instant petition has been filed praying for writ of mandamus commanding respondent no.2 i.e. District Magistrate, Ghazipur and respondent no.5 i.e. Project Director, N.H.A.I. to decide the application of the petitioners dated 30.11.2021 and make payment of compensation for the land of Khasra No. 69, Village Barahpur, Pargana and Tehsil Saidpur, District Ghazipur.
3. The case of the petitioners is that they are owners of Khasra No. 69 measuring 0.890 hectare, however, they were paid compensation only for an area measuring 0.0038 hectare, as the said area alone was notified in the notifications issued under the National Highways Act, 1956. The case of the petitioners is that the said mistake in the notification was also noticed by the State in a report submitted by revenue team (annexure-5 to the counter affidavit of the State). However, till date compensation for the said

area has not been paid to the petitioners.

4. The N.H.A.I. has filed counter affidavit and it has taken the plea that the compensation for the area notified, has been paid to the petitioners. It has also been alleged that there was no need to acquire any additional land in plot no. 69. However, the case of N.H.A.I. that the petitioners are not entitled to any further compensation, is falsified by the stand taken by the State-respondents in paragraph-6 of the counter affidavit, which is extracted below:

*"6. That in reply to the contents of paragraphs 9, 10 and 11 of the writ petition, it is submitted that notification in respect of Arazi No. 69 area 0.002 hectare has been issued under Section 3D of the Act on 17.01.2023 and in pursuance of the same by the letter of Pradhikaran dated 6/7.01.2023, it has been informed that excess amount paid in respect of Arazi No. 68 be recovered and deposited in joint account of competent authority and National Highway Authority of India and after deposit of said amount, compensation relating to rest of land i.e. 0.0696 hectare of Arazi No. 69 be paid. It is further submitted that due to mistake occurred in L.A.P. map, compensation has been paid to tenure holder in respect of Arazi No. 68 area 0.0754 whereas the compensation was required to be paid only in respect of 0.0058 hectare land of Arazi No. 68 which was found affected. Hence the tenure holders of Arazi No. 68 has been excessively paid amount of compensation and after realizing said excess amount from the tenure holders of Arazi No. 68, the relevant amount of compensation in respect of tenure holders of Arazi No. 69 for remaining 0.0696 hectare would be paid to them and in this regard, notice has been issued to the concerned tenure holder vide letter dated 02.02.2023 in pursuance of which realization process is going on and after realizing entire excess amount, the petitioners would be paid relevant amount of compensation as has been claimed by them in respect of Arazi No. 69 remaining area 0.0696 hectare. True photocopy of the notification dated 17.01.2023 and true photocopy of the notice dated 02.02.2023 are being annexed herewith and marked as **ANNEXURE NO. C.A. -6 & 7** to this*

counter affidavit.

*It is relevant to mention here that in view of the facts stated above, it is evident that tenure holders of Arazi No. 68 has been excessively paid amount of compensation and after realizing said excess amount from the tenure holders of Arazi No. 68, the relevant amount of compensation in respect of tenure holders of Arazi No. 69 for remaining 0.0696 hectare land would be paid to them and in this regard, notice has been issued to the concerned tenure holder vide letter 02.02.2023 in pursuance of which realization process is going on and after realizing entire excess amount, the petitioners would be paid relevant amount of compensation as has been claimed by them in respect of Arazi No. 69 remaining area 0.0696 hectare land, hence under the prevailing facts and circumstances of the case, the instant Writ Petition as framed and filed by the petitioners deserves to be dismissed. "*

5. Sri Rajiv Gupta, learned Additional Chief Standing Counsel states that the compensation amount for remaining area, would be calculated and paid to the petitioners expeditiously.

6. Accordingly and having regard to the stand taken by the State-respondents in paragraph-6 of the counter affidavit, the instant petition is **disposed of** with direction to the respondents to ensure payment of compensation for remaining area of 0.0696 hectare of Arazi No. 69 to the petitioners, within eight weeks from today.

(Donadi Ramesh, J.)

(Manoj Kumar Gupta, J.)

**Order Date :- 7.11.2023**

Noman