

Court No. - 21

Case :- WRIT - C No. - 39928 of 2023

Petitioner :- Smt. Kamlesh And 3 Others

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Shiv Sagar Singh

Counsel for Respondent :- CSC,Dharmendra Singh Chauhan,Suresh Singh

Hon'ble Manoj Kumar Gupta,Acting Chief Justice

Hon'ble Donadi Ramesh,J.

1. Heard Shri Shiv Sagar Singh, learned counsel for the petitioners, Shri Rajiv Gupta, learned Additional Chief Standing Counsel for Respondent Nos. 1 and 2 and Shri Dharmendra Singh Chauhan, learned counsel appearing on behalf of Respondent No. 3.

2. The petitioners have called in question the order dated 23.05.2022 passed by Special Land Acquisition Officer, Moradabad rejecting the application of the petitioners filed under Section 73 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. The application has been rejected on the ground that it is barred by time.

3. Learned counsel for the petitioners submits that the application was perfectly within time. He submits that in an identical facts and circumstances, in respect of another person where his application was also rejected as time barred, the writ petition has been allowed by order 27.07.2023 (**Writ - C No. 12754 of 2023, Smt. Zavitri Devi vs. State of U.P. and 2 Others**). The order passed in the said case is as follows:

"1. Heard Shri Shiv Sagar Singh, learned counsel for the petitioner, Shri Rajiv Gupta, learned Additional Standing Counsel and Shri D.S. Chauhan, learned counsel for respondent no. 3.

2. The petitioner has called in question an order dated 23.05.2022 passed by Special Land Acquisition Officer, Moradabad, rejecting the application of the petitioner for re-determination of the amount of compensation on basis of an award dated 11.01.2022, under Section 73 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. The application has been rejected on the sole ground that it is barred by time.

3. The admitted facts are as follows :-

The award by the Authority in excess of amount awarded by the Collector under Section 23 of the Act was passed on 11.01.2022. The petitioner who had not applied for enhancement of compensation originally awarded, sought benefit of the award dated 11.01.2022 by filing application under Section 73 of the Act. The petitioner applied for obtaining copy of the award dated 11.01.2022 on 06.04.2022, its copy was ready on 25.04.2022. The application for re-determination was filed by the petitioner on 28.04.2022.

4. Under Section 73, the limitation for filing application for re-determination of the amount of compensation is three months from the date of award of the Authority. The proviso stipulates that in computing the period of three months within which an application to the Collector shall be made under the said provision, the day on which the award was pronounced and the time requisite for obtaining a copy of the award shall be excluded.

5. If the aforesaid periods are excluded as per the dates noted above, the limitation would at least be upto 28.04.2022, on which date the application for re-determination was filed. A perusal of the impugned order shows that respondent no. 2 had not considered the proviso to sub-section (1) of Section 73 of the Act while computing the limitation for filing the application resulting in manifest error of law.

6. Accordingly, the impugned order is, hereby, quashed. Respondent no. 2 is directed to treat the application to have been filed within limitation and redetermine the compensation as expeditiously as possible and not later than twelve weeks from the date of communication of the instant order.

7. The writ petition stands allowed."

4. Shri D.S. Chauhan, learned counsel appearing for Development Authority very fairly states that the instant matter is covered by the aforesaid order as all relevant dates of the instant case tallies with the dates in **Smt. Zavitri Devi (supra)**.

5. Accordingly, the instant petition also stands **disposed of** in terms of the directions contained in paragraph 6 of the order quoted above.

(Donadi Ramesh, J.) (Manoj Kumar Gupta, A.C.J.)

Order Date :- 23.11.2023
Mukesh Pal