

Court No. - 39

Case :- CIVIL MISC REVIEW APPLICATION No. - 242 of 2023

Applicant :- Veer Sain

Opposite Party :- State Of U.P. And 3 Others

Counsel for Applicant :- Jai Shanker Misra, Ashish Mishra, Vijai Shanker Shukla

Counsel for Opposite Party :- C.S.C., Kaushalendra Nath Singh

Hon'ble Saumitra Dayal Singh, J.

Hon'ble Vikas Budhwar, J.

1. Heard Sri Jai Shanker Misra, learned counsel for the petitioner, Sri Manish Goel, learned Senior Advocate assisted by Sri Kaushalendra Nath Singh, learned counsel appearing on behalf of NOIDA and Sri Arimardan Singh Rajpoot, learned Standing Counsel for the State-respondents.

2. Present review application has been filed with reference to the order dated 31.03.2023 passed by Co-ordinate Bench of this Court.

3. Though not happily worded, the sum and substance of the case being set up in the review application is, the applicant-petitioner had first approached this Court as one of the 16 petitioners in Writ-C No. 45552 of 2011; Prem Chand and others vs. State of U.P. and others. That writ petition was disposed of with following terms:-

"Heard learned counsel for the petitioner and Shri Ramendra Pratap Singh for respondent no.4 and the learned Standing Counsel for respondent nos. 1, 2 and 3.

By this petition, the petitioner has prayed for quashing the notification issued under Section 4 read with Section 17 (1) and 17 (4) of the Land Acquisition Act, 1894 dated 30.3.2002 and the notification issued under Section 6 of the Act, 1894 dated 28.6.2003, relating to Village Sadarpur Pargana and Tehsil Dadri District Gautam Budh Nagar.

Learned counsel for the petitioner submits that the issues raised in this writ petition are covered by the Full Bench decision of this Court in Writ Petition No.37443 of 2011, (Gajraj & Ors. Vs. State of U.P. & Ors) decided on 21/10/2011.

Learned Standing Counsel as well as Shri Ramendra Pratap Singh appearing for respondent no.4 does not dispute the above submission.

In view of the aforesaid, this writ petition is disposed of in terms of the direction issued by the Full Bench of this Court in Writ Petition No.37443 of 2011, (Gajraj & Ors. Vs. State of U.P. & Ors) decided on 21/10/2011."

4. Thereafter the only grievance that arose to the petitioner was the rate at which compensation for the additional 5% abadi land was to be computed. The NOIDA authority proposes to compute the compensation @ Rs. 22,000/- per square meter, while the petitioner is claiming compensation @ Rs. 44,000/- per square meter as per the prevailing circle rate.

5. It is with respect to that relief, the petitioner approached this Court again by means of Writ-C No. 4800 of 2023; Veer Sain vs. State of U.P. and others, therein the following relief has been prayed for:-

"I. To issue a writ, order or direction in the nature of mandamus commanding Chief Executive Officer, NOIDA Industrial Development Authority (respondent no. 2) to allot additional 5% developed residential plot or pay compensation @ Rs. 44,000/- per square meter for additional 5% developed residential Abadi plot in respect of the acquired land of the petitioner, of Khasra no. 411M of revenue Village Sadarpur, Pargana and Tehsil-Dadri, District Gautam Budh Nagar."

5. Due to inadvertence, the basis of the claim made by the petitioner, i.e., his entitlement to receive 5% additional abadi land or the money value equivalent thereto, as was settled in terms of the order dated 17.11.2011 noted above, remained from being pointed out to the Court. In such circumstances, that writ petition (Writ-C No. 4800 of 2023) came to be dismissed vide order dated 21.03.2023.

6. Upon hearing learned counsel for the parties, it is disputed by the NOIDA authority that the order dated 17.11.2011 passed in Writ-C No. 45552 of 2011; Prem Chand and others vs. State of U.P. and others, was passed in the case of the petitioner. In that regard the difference of name spelling of petitioner no. 8 in that writ petition and the present petitioner, has been relied. Reference has also been made to the fact that the petitioner did not disclose the fact of having filed earlier Writ-C No. 45552 of 2011 and he did not rely on the order dated 17.11.2011, to any extent.

7. At the same time, in all fairness, learned Senior Advocate Sri Manish Goel, appearing on behalf of NOIDA authority submits that if the petitioner is the same person, who had earlier approached by means of Writ-C No. 45552 of 2011 (being petitioner no. 8 therein), the petitioner may remain entitled to claim additional compensation. As to the quantum of compensation, that issue is not to be dealt with at this stage as it would fall within the domain of the NOIDA authority to determine the claim of the petitioner in accordance with law, if the petitioner is one of the petitioner, who had approached this Court by means of Writ-C No. 45552 of 2011.

8. In view of the above, the order dated 31.03.2023 is hereby recalled. The review application is disposed of on the following terms:-

a) Subject to petitioner filing certified copy of the Writ-C No. 45552 of 2011; Prem Chand and others vs. State of U.P. and others, certified copy Writ-C No. 4800 of 2023 Veer Sain vs. State of U.P. and others and copy of review application as also supplementary affidavit filed in these proceedings, before respondent no. 2 within a period of one month from today and also adducing documentary and other evidence to establish that the petitioner is the same person, who had earlier approached this Court in Writ-C No. 45552 of 2011, the said respondent may proceed to hear and decide the petitioner's claim in accordance with law for award of compensation in lieu of 5% additional land.

b) In that process, the first issue to be dealt with is the identity of the petitioner and if the said issue is decided in favour of the petitioner, the respondents may determine the appropriate amount of compensation to be paid to the petitioner by passing and reasoned and speaking order. The said exercise may be completed within a period of three months from the date, when the first the compliance is shown by the petitioner.

Order Date :- 24.11.2023
Shiraz

(Vikas Budhwar, J.)

(S.D. Singh, J.)