

Court No. - 21

Case :- WRIT - C No. - 18801 of 2023

Petitioner :- Singhraj And 7 Others

Respondent :- Union Of India And 4 Others

Counsel for Petitioner :- Sundeep Agarwal

Counsel for Respondent :- A.S.G.I., Ashish Mishra, C.S.C., Narendra Kumar Chatterjee, Pranjal Mehrotra, Rahul Agarwal

Hon'ble Manoj Kumar Gupta, J.

Hon'ble Donadi Ramesh, J.

1. At the outset, Sri Sundeep Agarwal, learned counsel for the petitioners, states that he does not press the writ petition on behalf of petitioner no. 6 and he would avail other remedies for redressal of his alleged claim. Accordingly, we permit petitioner no. 6 to withdraw the petition with liberty to avail such other remedy as may be advised.

2. The instant writ petition has been filed praying for a writ of mandamus directing the respondent-Authorities to pay compensation to the petitioners for having acquired their land for construction of Eastern Peripheral Expressway National Highways NE-II.

3. The facts which are not in dispute are that one Prahlad (ancestor of the petitioners) was recorded tenure holder of Gata Nos. 168, 169 and 171, Village Bela Khurd, Tehsil Sadar, District Gautam Budh Nagar, along with other persons. The name of the petitioners was mutated in the revenue records by order of the revenue authorities dated 20.9.2017. The aforesaid plots were acquired under the provisions of the National Highways Act, 1956. Notification under Section 3-D of the Act dated 14.8.2017 specifically records that Prahlad is having share in the aforesaid land along with other persons. The exact share of Prahlad is also specifically mentioned. In the award dated 6.12.2017 also, the name of Prahlad as well as his share is specifically mentioned. There is recital in the award that Village Bela Khurd in which the aforesaid plots lie, was earlier a village of State of Haryana. In pursuance of Diskshit Award, it has come to the State of Uttar Pradesh.

However, the demarcation of boundaries in pursuance of Dikshit Award has not taken place so far and therefore it would not be possible to make payment of compensation to the recorded tenure holders. Accordingly, the compensation amount has been directed to be deposited before the Court of District Judge in terms of Section 3-H(4) of the Act.

4. On 1.11.2023, the following order was passed: -

1. Sri Rajiv Gupta, learned Additional Chief Standing Counsel states that he has been supplied written instructions by District Magistrate, Gautam Buddh Nagar in pursuance of our order dated 30.10.2023. According to it the compensation amount could not be paid to the petitioners as demarcation of boundaries between the State of Uttar Pradesh and Haryana in pursuance of Dixit award has not taken place so far.

2. We fail to understand how the boundary dispute between two States would have any effect on the claim of the petitioners in respect of compensation for the acquired land belonging to them.

3. Sri Rajiv Gupta, learned Additional Chief Standing Counsel sought further instructions from the District Magistrate and states that the respondents are ready to release the compensation amount in favour of the petitioners after obtaining an undertaking and bond from them. He submits that he will file affidavit of District Magistrate, Gautam Buddh Nagar in this behalf within three days.

4. Learned counsel for the petitioners states that the petitioners would furnish the undertaking and bond as may be required from them by the respondents.

5. Having regard to the respective stand of the parties, we adjourn the matter to 6th November, 2023 so that in the meantime, the affidavit of the District Magistrate in respect of the stand noted above is filed before this Court.

6. When the case is listed next, name of Sri Rahul Agarwal, Advocate shall be shown as counsel for respondent no. 5.

5. On matter being taken up today, an affidavit has been filed on behalf of respondent no. 3 and in para 4 thereof it is admitted that he furnished instructions to his counsel regarding readiness on his part to release compensation amount in favour of the petitioners. However, he has now taken the stand that it would not be possible to adhere to the aforesaid stand as despite there being an order of High Court of Punjab & Haryana dated 25.5.2023 in Civil Misc. Writ Petition No. 24641 of 2017 by Dinesh Kumar & Others for erection of boundary pillars in terms of Dikshit Award, it has not been done so far. The exercise for erection of boundary pillars is still in progress. It would not be possible to disburse the compensation till the process of demarcation and survey is completed and relevant documents are prepared on basis thereof for payment of compensation. It is also stated that unless the boundary pillars are installed, the actual area of the village cannot be ascertained and the process of settling the title and share of the owners cannot begin.

6. The scheme of the Act does not suggest that the stand taken by the respondents is sustainable in law. As noted above, the declaration under Section 3-D specifically mentions the name of the predecessor-in-title of the petitioners as well as their share. Under Section 3-H, the amount determined by award passed under Section 3-G has to be deposited by the Central Government in such manner as may be laid down by Rules made in this behalf by that Government, with the Competent Authority before taking possession of land. In compliance of the said direction, the NHAI has deposited the compensation amount with the Competent Authority. Sub-section (2) of Section 3-H mandates that as soon as the amount has been deposited under sub-section (1), the Competent Authority shall on behalf of the Central Government pay the amount to the person or persons entitled thereto. As on date, there is no other person claiming any hostile title or objecting to the claim of the petitioners herein. Under sub-section (4) of Section 3-H, the amount can be deposited before the principal civil court only if there is dispute relating to

apportionment of the amount or any part thereof or to any person or to whom the same or any part thereof is payable. Therefore, the very exercise of depositing the amount before the civil court was wholly illegal. In fact, the District Judge, having regard to the aforesaid legal position, has returned the compensation amount to the Competent Authority and Sri Rajeev Gupta, learned Additional Chief Standing Counsel, admits that it has been received by the Competent Authority on 8.8.2022.

7. The demarcation of boundaries in terms of Dikshit Award is a completely different process and has nothing to do with payment of compensation for the acquired land to the tenure holders whose names were recorded in the revenue records and also in the notification issued under Section 3-D and the award passed by the Authorities. If the two States delay the implementation of Dikshit Award, the petitioners cannot be made to suffer. In fact, respondent no. 3 rightly agreed for disbursement of compensation to the petitioners after taking undertaking from them and obtaining security bonds, but now without any valid reason, he has retracted from his statement.

8. Accordingly, the writ petition stands allowed in respect of petitioner nos. 1, 2, 3, 4, 5, 7 and 8 with a cost of Rs. 25,000/- to be paid by the State respondents to the petitioners aforesaid, in addition to the sum payable to them under the award. The petitioners shall be paid compensation in respect of their share as mentioned in the notification under Section 3-D and the award within a period of four weeks from today, along with other statutory benefits as are admissible, provided they furnish undertaking and security bonds in favour of the State within two weeks from today.

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

Order Date :- 6.11.2023
Jaideep/-