

Court No. - 1

Case :- MATTERS UNDER ARTICLE 227 No. - 7361 of 2023

Petitioner :- Ajay Pratap Singh And 2 Others

Respondent :- Special Land Acquisition Officer (Joint Organization)
And 3 Others

Counsel for Petitioner :- Subedar Mishra

Counsel for Respondent :- C.S.C., Suman Jaiswal

Hon'ble Jayant Banerji, J.

1. Heard learned counsel for the petitioners and Mrs. Suman Jaiswal, learned counsel appearing for the respondent nos.3 and 4.

2. This petition has been filed seeking the following reliefs:-

“A. Issue an order or direction to set-aside the order dated 16.05.2023 passed by District Judge, Aligarh, in arbitration case/L.A. no.01/2021 Geeta Kumari Vs. Dharmendra.

B. To issue order or direction to direct the court below to implead the petitioners and thereafter, decide the arbitration case/L.A. no.-1/2021 Geeta Kumari Vs. Dharmendra. Pending before District Judge, Aligarh.”

3. It appears that an application under Order 1 Rule 10 read with Section 151 CPC was filed by the petitioners, which was dismissed by the order impugned. The District Judge, while passing the impugned order dated 16.05.2023, has observed that the applicants have not objected to the original award. While referring to an order passed by the High Court, the District Judge has observed that the applicants are not parties in the original award and, therefore, at this stage, there is no justification for them to be made parties. Accordingly, the application was dismissed.

4. The contention of the learned counsel for the petitioners is that pursuant to an order passed by the High Court in Writ-C No.15042 of 2021 (Ajay Pal Singh & 5 Ors. vs. State of U.P. & 3 Ors.), an order was passed by the Special Land Acquisition Officer¹, on 02.08.2021 in which

1 SLAO

the objection filed by the petitioners was considered and the matter was referred to the principal court of the original jurisdiction under Section 3H(4) of the National Highways Act, 1956² and, therefore, the District Judge was not justified in rejecting the application filed by the petitioners seeking impleadment. It is stated that in the order dated 02.08.2021 passed by the SLAO, reference has been made to proceedings under Section 198(4) of the U.P. Zamindari Abolition and Land Reforms Act, 1951³ whereby the allotment made in favour of the petitioners was set aside by the competent authority. It is stated that after the Revision No.46/2012-13, which was filed challenging the proceedings under Section 198(4), was rejected by the Board of Revenue, U.P. at Allahabad, the petitioners filed a writ petition before this Court, being Writ-B No.1520 of 2021 in which time was granted to the respondents to file counter affidavit and till the next date of listing, the operation and implementation of the order dated 18.02.2021 passed by the Board of Revenue U.P. at Allahabad was directed to remain stayed. The Board of Revenue, in its order dated 18.02.2021 while dismissing the revision, had observed as follow:-

"उल्लिखित प्रेक्षणमूलक बिन्दुओं के आलोक में स्पष्ट है कि सहायक कलेक्टर प्रथम श्रेणी / अपर नगर मजिस्ट्रेट द्वितीय का आदेश दिनांक 30-10-2012 विधि व्यवस्थाओं के सम्यक विचारण-पूर्वक स्वस्थ मतिष्क से पारित किया गया है। उनका आदेश यथावत रखे जाने योग्य है। प्रस्तुत निगरानी बलहीन होने के आधार पर निरस्त की जाती है। स्थगन, यदि कोई हो तो वह भी, निरस्त किया जाता है। इस न्यायालय के आदेश की सत्यप्रति के साथ अवर न्यायालयों के अभिलेख प्रेषित किए जायें। बाद आवश्यक कार्यवाही पत्रावली दाखिल दफ्तर हो।"

4. It is further stated by the learned counsel for the petitioners that a letter dated 19.01.2023 was issued by the SLAO to the petitioner no .1 in which it was mentioned that the matter has been referred to the court of competent jurisdiction, and before the District Judge, Aligarh, the Land Acquisition Case No.1 of 2021 (Smt. Geeta Kumari vs. Dharmendra) is pending and the petitioner can approach the court for being made a party therein. It is stated that the order impugned dated 16.05.2023 has been

² Act, 1956

³ UPZA & LR Act

passed in the aforesaid land acquisition case and not in any arbitration case.

5. Learned counsel appearing for the respondent nos.3 and 4, on the other hand, has stated that the award with respect to the land in dispute has been made way back in the year 2018 and the respondent nos.3 and 4 are being deprived of their dues of compensation awarded under the provisions of the Act, 1956.

6. It is pertinent to mention here that the order impugned has been passed in Arbitration Case No.1 of 2021 by the District Judge, Aligarh, which is between Geeta Kumari vs. Dharmendra and others. Under the Act, 1956, arbitration proceedings may be resorted to by a party, who finds that the amount determined by the competent authority is not acceptable under sub-section (5) of Section 3(G) of the Act, 1956 who would determine the amount.

7. Under Section 3H(4) of the Act, 1956, where any dispute arises as to the apportionment of the amount or any part thereof or to any person to whom the same or any part thereof is payable, the competent authority is required to refer the dispute to the decision of the principal civil court of original jurisdiction within the limits of whose jurisdiction the land is situated.

8. A perusal of the order dated 02.08.2021 passed by the SLAO reflects that Plot No.31M is a minjumla plot in which the names of several persons are recorded. None of the names of the petitioners appear as recorded owners in the first tabulated chart appearing in the order of the SLAO. It has been stated by the SLAO that plot no.31M comprises of seven khata numbers. The name of the respondent no.4 appears against the Khata No.172. It is observed that a spot inspection report dated 20.05.2018 was forwarded by the Sub-Divisional Officer, Kol which was a joint inspection report in which it was reflected that Plot No.31M having an area of 0.6900 hectares having land revenue of 17.50 paisa was recorded in the name of Ram Gopal s/o Than Singh as a bhumidhar with

non-transferable rights by the Additional City Magistrate/Assistant Collector, First Class, Aligarh, by his order dated 23.07.2008 passed under Section 122-B(4F) of the UPZA & LR Act. By an order dated 17.08.2016, the Sub-Divisional Officer, Kol, in proceedings under Section 76 of the U.P. Land Revenue Code, 2006, declared Ram Gopal to be bhumidhar with transferable rights in place of bhumidhar with non-transferable rights. The aforesaid Ram Gopal, on 26.09.2016, sold an area of 0.6140 hectares from the area of 0.6900 hectares of Plot No.31M to Dharmendra Kumar s/o Fateh Singh, Rakesh s/o Prempal and Prempal s/o Totaram, Chhedalal s/o Hari Singh, Ajay Pal s/o Tara Singh and Satish Chandra s/o Sherpal. The mutation to that effect is recorded in the khatauni. It is noted that by acquiring of land totalling 2729 sq. mts. from Plot No.31M, as per the certified map maintained in the record room of the Collector, Aligarh, the above named purchasers' lands were affected. It is noted that the names of the purchasers in the sale-deeds executed by Ram Gopal were recorded as bhumidhar with transferable rights in the revenue records. Several objections were filed by Ajay Kumar s/o Surendra Singh and Arun Kumar s/o Nahar Singh in respect of different parts of Plot No.31M aforesaid. The report of the Sub-Divisional Officer, Kol dated 04.10.2019 regarding minjumla land of Plot No.31 was mentioned in the second tabulated chart in the order of SLAO in which the status of the plots affected by the acquisition are mentioned against the names of the land owners. On the basis of the sale-deeds executed in respect of plots over Plot No.31, a list of land holders is mentioned in the order of the SLAO in the third tabulated chart which comprises of 22 persons, including respondent nos.3 and 4, who are demanding payment of compensation.

9. As far as the claim of the petitioner nos.1 and 3 is concerned, the proceedings instituted by the Additional City Magistrate and Assistant Collector, Aligarh in Case No.13 of 2015 under Section 198(4) of the UPZA & LR Act were considered in which it was observed that by the order dated 30.10.2012, their claim was rejected. A restoration application filed by them was dismissed on 09.05.2013 and against the

orders, a revision was filed by them before the Board of Revenue, which was dismissed by an order dated 18.02.2021. It was, accordingly, found by the SLAO in the order dated 02.08.2021, that the objectors/petitioner nos.1 and 3 cannot sustain their objections to contend that till the disposal of the revision filed before the Board of Revenue, the compensation be not paid to any person. Accordingly, while referring to the provisions of Section 3H(4) of the Act, 1956, the SLAO observed as follows:-

"मेरे द्वारा मा० उच्च न्यायालय इलाहाबाद के आदेश दिनांक 08.07.2021 के क्रम में राजस्व ग्राम पनैठी में चार लेन के निर्माणार्थ घोषित अधिनिर्णय दिनांक 03.01.2018 में गाटा संख्या-31 मि० रकवा 2729 व०मी० भूमि एवं छः लेन के घोषित अधिनिर्णय दिनांक 01.12.2018 में गाटा संख्या - 31 मि० का अर्जित रकवा 1729 व०मी० भूमि के स्वामित्व / प्रतिकर का विवाद होने के कारण प्रकरण को भारतीय राष्ट्रीय राजमार्ग अभिनियम 1956 की धारा-3 एच (4) के अनुसार आरम्भिक अधिकारिता वाले प्रधान सिविल न्यायालय अलीगढ़ जनपद न्यायालय को किया जाये।"

10. The letter dated 19.01.2023 stated to have been issued to the petitioners by the SLAO that is enclosed at page 141 of the petition would not inure to the benefit of the petitioners. Firstly, the petitioner no.2 was not the person who filed any objections before the SLAO. Secondly, the letter dated 19.01.2023 merely states that the matter has been referred under Section 3H(4) of the Act, 1956 to the court of the District Judge, in which the Land Acquisition Case No.1 of 2021 is pending and it is open for the petitioner no.1 to move an application for being made a party therein.

11. Accordingly, the order of the District Judge dated 16.05.2023 refusing impleadment of the petitioners calls for no interference.

12. The petition is, therefore, **dismissed**.

Order Date : 31.10.2023

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(Jayant Banerji, J)