

Court No. - 40

Case :- WRIT - C No. - 24654 of 2023

Petitioner :- Mohd. Imran Qadri Baba

Respondent :- State Of U.P. And 8 Others

Counsel for Petitioner :- Manish Singh, Sushma Singh

Counsel for Respondent :- C.S.C, Iqbal Hussain, Nikhil Mishra, Ravi Prakash Pandey

Hon'ble Mahesh Chandra Tripathi, J.

Hon'ble Prashant Kumar, J.

1. Heard Sri Rohit Singh holding brief of Sri Manish Singh, learned counsel for the petitioner; Sri Ambrish Shukla, learned Additional Chief Standing Counsel for the State-respondent; Sri Iqbal Hussain, learned counsel for the respondent no. 4/Nagar Nigam Varanasi and Sri Ravi Prakash Pandey, learned counsel for the respondent no. 5/Varanasi Development Authority.
2. The present writ petition has been preferred for a mandamus restraining the respondents not to carry out any demolition of the petitioner's house without acquiring the same. It has also been prayed that the respondents be restrained to give effect to the project of road widening from Kachaharee to Sandaha via Ashapur Chauraha in District Varanasi bearing 9.325 Km. pursuant of the Government Order dated 23.12.2021 (Annexure No. 2 to the writ petition). It is alleged that in the name of road widening, the major portion of petitioner's holding is being taken away.
3. At the very outset, learned Additional Chief Standing Counsel has placed the detailed instructions sent by Executive Engineer, Provincial Division, P.W.D. Varanasi indicating therein that the dispute land is required for widening of the road to four lane. It is also averred that due to heavy congestion over the road, the road widening has become unavoidable in national interest. All the structures whether new or old lying over the State land and had been encroached are required to be removed. To add this, learned Additional Chief Standing Counsel has also placed categorical instructions only on account of heavy encroachment made over the State land, once notice was given, more than 70% residents have already agreed to

remove their illegal constructions. The process of marking of all encroachment and public announcement for that purpose has been carried out and even revenue officials had also marked red point on the property, which were constructed either contrary to the plan or over the State land. Therefore, the respondents had every right to remove the encroachment without any acquisition or compensation. In support of his submissions, learned Additional Chief Standing Counsel has placed reliance on the judgment of Hon'ble the Apex Court in Special Leave to Appeal (C) No(s).9314-9315/2022, *G. Narsing Rao (Died) Thr. LRs. v. The National Highways Authority of India & Anr.* Dated 8.6.2022; Civil Appeal No (S) 11141 of 2018 (*National Highways Authority of India & Ors. v. Madhukar Kumar & Ors.*) dated 23.9.2021; Civil Appeal No(s) 3189 of 2022 (*Kalyai (Dead) through Lrs. & Ors. v. The Sulthan Bathery Municipality & Ors.*) dated 26.4.2022 as well as the judgment of this Court in Writ-C No.15737 of 2022 (*Intezamia Committee Shahi Masjid v. State of U.P. & Ors.*) dated 16.8.2022; Misc. Bench No.13474 of 2016 (*Lavkush & Ors. v. State of U.P. & Ors.*) dated 3.6.2016 and Writ-C No.21866 of 2018 (*Praachin Maa Kali Mandir & Anr. v. State of U.P. & Ors.*) dated 13.7.2018.

4. Confronted with this situation, learned counsel for the petitioner submits that he is not against the road widening but actual measurement is to be carried out and in case the respondents are utilizing the land of the petitioner for road widening then adequate compensation is to be ensured to the petitioner.
5. Considering the facts and circumstances of the case and the objection so raised by learned Additional Chief Standing Counsel, we dispose of the writ petition asking the District Magistrate concerned to redress the grievance of the petitioner but certainly taking into account the report submitted by the revenue officials. In case, the petitioner has title over the disputed land then definitely the adequate compensation is to be ensured to the petitioner within six weeks from the date of production of a certified copy of this order.

Order Date :- 16.10.2023

A.K.Srivastava