

Court No. - 1

Case :- MATTERS UNDER ARTICLE 227 No. - 7876 of 2023

Petitioner :- Sultan Singh And 2 Others

Respondent :- State Of U.P. And 5 Others

Counsel for Petitioner :- Ajay Kumar Jagdish

**Counsel for Respondent :- C.S.C.,Archit Mandhyan,Rajesh Kumar
Yadav,Vipin Kumar Singh**

Hon'ble Jayant Banerji,J.

1. Heard Sri Ajay Kumar Jagdish, learned counsel for the petitioners. Learned Standing Counsel appears for respondent nos. 1,2,3,4 and 6. The respondent no.5 is represented by Sri Vipin Kumar Singh, Advocate.

2. The array of parties in this petition is as under:-

"1. Sultan Singh son of Sri Kundan Singh.

2. Mata Prasad son of Sri Kundan Singh.

3. Dev Dutt son of Gaya Prasad.

all resident of village Bhanpura, Tehsil Fatehabad, District Agra

-----Petitioners.

Versus.

1. State of UP through Secretary (Department of Agricultural), Govt. of U.P. at Lucknow.

2. Commissioner/Director Land Acquisition Directorate Board of Revenue, Lucknow.

3. District Magistrate, District Agra.

4. Additional Director Magistrate(Land Acquisition), District Agra.

5. Krishi Utpadan Mandi Samiti, Shamshabad Agra through its Secretary.

6. Sub-Divisional Magistrate/Chairman Tehsil Fatehabad District Agra.

-----Respondents.

3. This petition has been filed seeking the following relief:

“i) Issue a order or direction to the learned Civil Judge (Senior Division) Agra to decide the Case No. 311 of 2022 (Sultan Singh Vs. State of UP and another) under Section 80 C.P.C., within certain stipulated period of time as fixed by this Hon’ble Court.”

4. It appears that the petitioners have filed an application which is stated to be numbered as 311 of 2022 in the court of Civil Judge (Senior Division), Agra (Shri Sultan Singh Vs. State of UP through Collector, Agra and another). The application which is dated 15.9.2022 seeks permission of the court to file injunction suit against the opposite parties without serving notice under Section 80 of the Code of Civil Procedure (CPC) looking to the urgency of the case. In the application, it is stated that the applicant is owner and possession of Gata No. 11 having total area 3.6510 hectare situated in Mauza Patti Bhanpura, Pargana and Tehsil Fatehabad, District Agra, which was sought to be acquired and notification under Section 4 (1)/17 of the Land Acquisition Act, 1894 dated 8.4.2010 was issued for public purpose that is construction of Krishi Utpadan Mandi Samiti, Shamshabad, Agra. It is stated that without any declaration, notice under Section 9 of the Act, 1894 was issued and objection of petitioner no.1/applicant was rejected. It appears that the applicant with other co-owner filed Writ Petition No. 42176 of 2014 for quashing the notification dated 8.4.2010 under Section 4(1)/17 of the Act, but the writ petition was dismissed directing the petitioners to make submission before the Civil Court Agra. It is further stated in the application that 11.9.2022, the opposite parties threatened the applicant to remove his construction within a week, otherwise they will demolish his construction.

5. Learned counsel for respondents have opposed the petition stating that there is no urgency in the matter and the application purportedly moved under sub-section (2) of Section 80 CPC is wholly frivolous and misconceived.

6. At this stage, learned counsel for the petitioners prays that he may be permitted to withdraw this petition.

7. As such, since prayer for withdrawal has been made, this petition is **dismissed** without imposing any exemplary cost.

8. Learned Standing is directed to send a copy of this order to the concerned District Magistrate.

9. Registrar (Compliance) is required to send a copy of this order to the court concerned within fifteen days.

Order Date :- 6.11.2023

sfa/

(Jayant Banerji, J)