

Court No. - 21

Case :- WRIT - C No. - 25181 of 2023

Petitioner :- Govind Narayan Mishra And 5 Others

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

Counsel for Petitioner :- Phool Chandra Singh,Alok Singh,Sumitra Singh

Counsel for Respondent :- C.S.C.

Hon'ble Manoj Kumar Gupta,J.

Hon'ble Donadi Ramesh,J.

1. The instant petition has been filed by the petitioners praying for a direction to respondent nos. 2/3 to decide their representations dated 10.4.2023 and 18.7.2023 and restrain them from encroaching the bhumidhari land of the petitioners, i.e. Arazi No. 152, area 0.5710 hectare, situated in Gram Panchayat Nadesar, Post Maroofpur, Pargana Barah, Tehsil Sakaldeeha, District Chandauli and for a further direction to pay compensation to the petitioners in case any part of their holding is taken over by the respondents for widening of the road.

2. On 9.10.2023, we passed the following order: -

1. Supplementary affidavit filed today, is taken on record.

2. Learned counsel for the petitioners has annexed along with supplementary affidavit various reports/replies given by Executive Engineer, Provincial Public Works Department, Chandauli in response to questionnaire under Right to Information Act, wherein different measurements of the road have been given. In one report, the width mentioned is between 40-50 feet (report dated 12.11.2013). In another, it has been given as 35 kari on either sides from the centre of the road (report dated 28.3.2018) and the recent report of S.D.M., which mentions width of road as 100 feet on an average.

3. We direct the District Magistrate, Chandauli to examine the records and disclose in his affidavit the actual width of the road according to the notification relating to the said land. He will also get a survey conducted by constituting a revenue team. The revenue team will take measurements after finding out fixed point. The area of the land, which is now in possession of the petitioners, shall be clearly demarcated on the survey plan. The road shall be traced on the map.

4. List as fresh on 26th October, 2023.

5. Sri Rajiv Gupta, learned Additional Chief Standing Counsel will communicate the instant order to the concerned respondent for due compliance.

3. In compliance of the above order, the District Magistrate has filed his personal affidavit, wherein it is stated that a team of revenue officials was constituted in pursuance of the order of SDM, Sakaldeepha. The inspection was carried out in presence of the petitioners. The average width of the road as of now is reported to be 20 meters and the stand taken in the affidavit is that it has to be made 24 meters. Thus, there would be widening of the road by 4 meters and it would involve taking over of possession of 132 sq. meters of the land of the petitioners.

4. Learned counsel for the petitioners submits that the measurements given in the survey report are not correct. He places reliance on para 7 of the rejoinder affidavit wherein the stand taken is that in fact, 330 sq. meters of the land of the petitioners would get affected.

5. Since it is admitted that 132 sq. meters of the land of the petitioners would be affected by widening of the road, therefore we direct the Committee envisaged under G.O. dated 12.5.2016 to determine compensation for the aforesaid area within a period of eight weeks from the date of communication of the instant order along with a fresh representation.

6. In respect of the claim of the petitioners that the survey got carried out is not correct, we leave it open to the petitioners to avail the remedy provided under the U.P. Revenue Code, 2006 for getting his land demarcated, or to avail such other remedy as may be advised.

7. The petition stands disposed of accordingly.

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

Order Date :- 17.11.2023

Jaideep/-