

Court No. - 21

Case :- WRIT - C No. - 32330 of 2023

Petitioner :- Bhagmal Yadav And 9 Others

Respondent :- The State Of U.P. And 2 Others

Counsel for Petitioner :- Kamal Singh Yadav

Counsel for Respondent :- C.S.C.,Kaushalendra Nath Singh

Hon'ble Manoj Kumar Gupta,Acting Chief Justice

Hon'ble Donadi Ramesh,J.

1. The instant petition has been filed praying for a writ of mandamus commanding the respondents to pay compensation to the petitioners on basis of the calculation made by A.D.M., Land Acquisition in its communication dated 16.11.2022 addressed to NOIDA, Gautam Budh Nagar. According to it, NOIDA has been requested to make available a sum of Rs.92,11,052/- to him for payment of additional compensation in terms of order passed under Section 28-A of the Land Acquisition Act, 1894 dated 7.05.2022 (Annexure-6).

2. It is not disputed that on the application of the petitioners under Section 28-A of the Act, the aforesaid order was passed enhancing the compensation amount. Despite request by A.D.M., Land Acquisition to NOIDA Authority to release the amount to facilitate payment thereof to the petitioners, it has not been done so far, therefore, the instant petition for the above direction.

3. NOIDA has filed counter affidavit in which it has stated that the petitioners have made some illegal encroachment. They have also referred to Board Meeting dated 4.01.2006 wherein a decision was taken that 5% additional land could be given to the affected persons only when the illegal encroachment is removed.

4. The payment of enhanced compensation under Section 28-A is the statutory liability of the acquiring body and the State and the same cannot be made dependent upon removal of any alleged encroachment by the person concerned. Even the decision of the Board taken in its meeting dated 4.01.2006 does not apply to payment of compensation under Section 28-A of the Act, but to allotment of 5% additional developed land.

5. Sri Rajeev Gupta, learned Additional Chief Standing Counsel is in receipt of instructions from the State respondents and he states that the State respondents are making efforts to get the money and

payment would be made very soon.

6. Accordingly, having regard to the facts of the case and the submissions made, we dispose of the instant petition with direction to respondents to ensure that enhanced compensation in terms of order passed under Section 28-A dated 7.05.2022 is paid to the petitioners within four weeks from the date of communication of the instant order after verifying their ID and bank accounts.

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

Order Date :- 4.12.2023

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