

**Court No. - 21**

**Case :-** WRIT - C No. - 33383 of 2023

**Petitioner :-** Rajwala Devi

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

**Counsel for Petitioner :-** Abhishek Rai, Mithilesh Kumar Rai

**Counsel for Respondent :-** CSC

**Hon'ble Manoj Kumar Gupta, Acting Chief Justice**

**Hon'ble Donadi Ramesh, J.**

1. The instant petition has been filed praying for quashing of the award dated 18.09.1962 in Case No. 6 of 1994 covering the land of the petitioner bearing Khasra No. 18ka, kha, 19ka, kha, ga and for a direction to the respondents to pay compensation to the petitioner as per the provisions of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. The petitioner has also prayed for a direction to the respondents to decide his representation dated 12.05.2023, wherein, the prayer made is for cancelling the acquisition proceeding and restoring back the land to the petitioner and for proceeding afresh under the new Act.

2. Learned counsel for the petitioner submitted that the land was acquired for construction of Inspection House and colony but the said purpose has not been achieved so far. Therefore, the acquisition is liable to be cancelled. He further submits that the petitioner nor his ancestors have withdrawn the compensation amount.

3. On query made by the Court as to under which provision the petitioner is seeking cancellation of acquisition proceeding, he relies on Section 48 of the Land Acquisition Act, 1894. Section 48 of the Act reads as follows:

**"48. Completion of acquisition not compulsory, but compensation to be awarded when not completed.—**(1) Except in the case provided for in section 36, the Government shall be at liberty to withdraw from the acquisition of any land of which possession has not been taken.

(2) Whenever the Government withdraws from any such acquisition, the Collector shall determine the amount of compensation due for the damage suffered by the owner in consequence of the notice or of any proceedings thereunder, and shall pay such amount to the person interested, together with all costs reasonably incurred by him in the prosecution of the proceedings under this Act relating to the said land.

(3) The provisions of Part III of this Act shall apply, so far as may be, to the determination of the compensation payable under this section."

4. In paragraph-10 of the writ petition, the petitioner has disclosed the date of award as 31.1.1961 and date of possession as 31.1.1961. Although, it is alleged in subsequent paragraphs that the petitioner is still in possession, but the pleadings in this regard are contradictory. Apart from the averments made in para-10 regarding date of possession to be 31.1.1961, in para 22 also it is stated that the land, after acquisition, was handed over to UPSRTC which is alleged to be making constructions over the same illegally. As such we are not ready to accept that the petitioner is still in possession of the subject land or that the respondents had not taken possession in pursuance of the acquisition proceedings. Therefore, Section 48 of the Act would not be attracted. Further, we find no good ground to quash the award or the acquisition proceedings at this distance in time. Once award has been made, it is immaterial that the petitioner or his ancestors have not withdrawn the compensation amount.

5. The writ petition is dismissed. It is left open to the petitioner to withdraw the compensation amount, if so advised.

**Order Date :- 12.12.2023**

Mukesh Kr.

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