

Court No. - 40

Case :- WRIT - C No. - 33881 of 2023

Petitioner :- Sunil Kumar

Respondent :- Union Of India And 4 Others

Counsel for Petitioner :- Arun Kumar Sharma

Counsel for Respondent :- A.S.G.I.,C.S.C.,Pooja Agarwal,Raghav Dwivedi

Hon'ble Mahesh Chandra Tripathi,J.

Hon'ble Prashant Kumar,J.

1. Heard Shri Arun Kumar Sharma, learned counsel for the petitioner; Shri Ambrish Shukla, learned Addl. Chief Standing Counsel for State respondents and Shri Raghav Dwivedi, learned counsel for respondents - National Highways Authority of India (NHAI).

2. This writ petition is preferred for following principal relief:

"I. Issue a writ, order, or direction in the nature of Mandamus directing to the respondent (Authority Concerned) to complete service road at the side of Highway (N.H. 91) on the route of village Lakhora Kurawali, District-Mainpuri according to law.

II. Issue a writ, order, or direction in the nature of Mandamus directing to the respondent (authority concerned) to decide the pending representation dated 26.06.2023 (Annexure No.6) to this writ petition."

3. The present matter relates for construction of side lane/ service road. While entertaining the writ petition on 01.11.2023, we asked the learned Additional Chief Standing Counsel to get instructions in the matter. On 30.11.2023, we have observed that neither the NHAI nor the State Government has given any concrete instruction, whether at the proposed site they have already planned for laying the side lane and in absence of the instructions, we are unable to proceed further in the matter, and accordingly we adjourned the matter for taking proper instructions. Today, Sri Raghav Dwivedi, learned counsel for NHAI has placed the instruction dated 12.12.2023 sent by Project Director, NHAI.

4. Shri Raghav Dwivedi, learned counsel for respondents - National Highways Authority of India (NHAI) states, on the basis of instructions, that regarding the construction of the service road in Gram Lakhoura, which is affected due to the widening/bypass project of National Highway No. 91 (Aligarh-Kanpur Section), the need for additional land beyond the acquisition for the construction of the service road in Gata No. 1418, 1419, 1420, 1442, 1443, 1445, 1447 of Gram Lakhoura was made and subsequently it was found that there are some disputes in respect of following Gata numbers:

- (i) In Gata No. 1419/1, 120 square meters of government land (usar) has been shown
- (ii) In the record of Gata No. 1443, the complete land sale has been executed, and the names of original landowners are still mentioned
- (iii) Regarding the land in Gata No. 1447, it is under consideration in the District Court.

Shri Raghav Dwivedi, learned counsel for respondents - National Highways Authority of India (NHAI) submits that due to aforesaid disputes, the construction of the service road on a length of about 250 meters out of approximately 1553 meters, could not be carried out on-site.

4. Considering the facts and circumstances of the case, we find that so far as the disputes regarding Gata No. 1419/1 and Gata No. 1443 are concerned, they are trivial in nature and may be resolved by NHAI and State amicably. So far as the impediment in respect of Gata No. 1447 is concerned, an application for amicable settlement may be made. We propose that the Collector concerned may take remedial measures so that aforesaid impediment may be removed without any further delay due to which, the cost of construction would also escalate. Accordingly, we dispose of this writ petition with a direction to the District Magistrate, Mainpuri to have negotiation in the matter except Gata No. 1447, in respect of which civil case is pending consideration before the court. Even in the said proceeding, he may entertain and press the relief before the competent civil court in case it is mutually negotiable.

5. With the aforesaid observations, the writ petition is **disposed of**.

Order Date :- 13.12.2023
NLY