

Court No. - 21

Case :- WRIT - C No. - 33527 of 2023

Petitioner :- Naseer Ahmad And 2 Others

Respondent :- State Of U.P. And 6 Others

Counsel for Petitioner :- Manish Singh, Sushma Singh

Counsel for Respondent :- C.S.C., Anurag Yadav, Praveen Kumar Giri

Hon'ble Manoj Kumar Gupta, J.

Hon'ble Donadi Ramesh, J.

1. The instant petition has been filed praying for a restraint order against the respondents so that the constructions of the petitioners bearing number S6/100, Golghar Kutchery, Varanasi, District Varanasi, are not demolished during widening of road from Kutchery to Sandaha.

2. On 17.10.2023 a Co-ordinate Bench passed the following order: -

1. The contention of learned counsel for the petitioners in the present case is that their construction is being demolished to widen the road without the land on which their construction exists either being acquired under the relevant law and without being purchased from the petitioners.

2. The Standing Counsel has received instructions and on the basis of his instructions, he states that the petitioners have not yet sought any compensation.

3. The fact that the petitioners are expected to seek compensation prima facie indicates that the petitioners have not encroached over the public land and the construction existed on their private property.

4. The Standing Counsel has not been able to apprise the Court on the basis of the instructions as to whether the land of the petitioners has yet been acquired or not.

5. The Standing Counsel prays for and is granted 10 days further time to obtain detailed instructions in the matter.

6. Put up again as fresh on 31.10.2023.

7. Till 31.10.2023, the construction of the petitioners existing over the disputed plot shall not be demolished.

3. On matter being taken up today, Sri Rajeev Gupta, learned Additional Chief Standing Counsel, has placed on record the instructions received by him from the Executive Engineer, Provincial Division, PWD, Varanasi, in which it is admitted that the house of the petitioners in which they have 1/3 share is getting affected in the widening of the road. The instructions does not mention about any formal acquisition proceedings having been initiated by the respondents. Rather the stand taken is that in respect of private land/houses upon execution of valid documents, compensation would be paid as per G.O. dated 19.3.2015.

4. Learned counsel for the petitioners vehemently contended that the respondents without any formal acquisition cannot compel the petitioners to part with their land.

5. Sri Rajeev Gupta, learned Additional Chief Standing Counsel on being asked by the Court, states that he does not wish to file any formal counter affidavit as the instructions received by him clearly discloses the stand of the State Government. He is unable to explain how the respondents can compel the petitioners to accept compensation without formal acquisition.

6. Having regard to the aforesaid admitted factual position, we dispose of the instant petition by providing that the respondents will not demolish the constructions of the petitioners for widening of the road without formal acquisition or in case the petitioners agree to part with their land, upon payment of adequate compensation as per agreement.

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

Order Date :- 31.10.2023

Jaideep/-