

Court No. - 21

Case :- WRIT - C No. - 32632 of 2023

Petitioner :- Smt. Chand Kapoor And 39 Others

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

Counsel for Petitioner :- Punit Kumar Gupta, Poorva Agarwal

Counsel for Respondent :- C.S.C., P. K. Giri, Praveen Kumar Giri

WITH

Case :- WRIT - C No. - 35103 of 2023

Petitioner :- Manjeet Singh

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

Counsel for Petitioner :- Prashant Pandey

Counsel for Respondent :- C.S.C

WITH

Case :- WRIT - C No. - 39734 of 2023

Petitioner :- Rambabu Prajapati

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

Counsel for Petitioner :- Vinay Kumar, Mohitosh Singh

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

WITH

Case :- WRIT - C No. - 39743 of 2023

Petitioner :- Nitesh Kumar Agrahari

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

Counsel for Petitioner :- Vinay Kumar, Mohitosh Singh

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

WITH

Case :- WRIT - C No. - 40265 of 2023

Petitioner :- Kanhaiyalal Gupta And 18 Others

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

Counsel for Petitioner :- Amrendra Nath Rai, Santosh Kumar Singh

Counsel for Respondent :- CSC, Praveen Kumar Giri

WITH

Case :- WRIT - C No. - 41446 of 2023

Petitioner :- Santosh Kumar Sharma And 17 Others

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

Counsel for Petitioner :- Amrendra Nath Rai, Santosh Kumar Singh
Counsel for Respondent :- C.S.C., Praveen Kumar Giri

Hon'ble Manoj Kumar Gupta, Acting Chief Justice
Hon'ble Donadi Ramesh, J.

Heard learned counsel appearing for the petitioners, Sri P.K. Giri, learned counsel appearing for Nagar Nigam, Varanasi and Sri Rajiv Gupta, learned Additional Chief Standing Counsel appearing for the State-respondents.

Sri Rajiv Gupta, Additional Chief Standing Counsel appearing for the State-respondents submits that since all the matters are identical, they can be disposed of on basis of instructions received in Writ-C No. 35103 of 2023 (*Manjeet Singh vs. State of U.P. and 2 others*) and, therefore, we proceed to decide all the cases by this common order.

The petitioners in these writ petitions are aggrieved by the threat being extended by the State-respondents to demolish their constructions existing at Padav (Tengara Crossing) in district Varanasi which is part of NH-7 and is required by the respondents for widening and beautification of the existing road. The specific case of the petitioners is that their constructions are in existence since long time. They have not been served with any notice by the respondents but straight away they are threatening to demolish the constructions.

Sri Rajiv Gupta, learned Additional Chief Standing Counsel is in receipt of written instructions in Writ-C No. 35103 of 2023 (*Manjeet Singh vs. State of U.P. and 2 others*). According to it, the road widening is being carried on in pursuance of Government Order dated 7.1.2022. It is admitted to the respondents in the said case that an area of 0.0058 hectare belonging to Manjeet Singh would be affected. The respondents have taken the stand that as per Government Order, efforts are being made to pay compensation to him and other affected persons on basis of mutual negotiations.

It is thus evident that there is no compulsory acquisition of land of any of the petitioners but the respondents are in the process of obtaining title over the land of affected persons on basis of mutual negotiations.

Sri Rajiv Gupta, learned Additional Chief Standing Counsel states that the constructions are also in the nature of encroachment but he

admits that till date, there is no order of demolition in respect of any of the petitioners.

The respondents cannot demolish the constructions of the petitioners without there being an order in this behalf having been passed in accordance with law. Moreover, in case, respondents are interested in obtaining the land of the petitioners for widening of the road through mutual negotiations, it is always open to them to proceed with the said exercise but in case any person does not agree to it, he cannot be compelled to part with his land and in such case the only option available is to compulsorily acquire the land of that person as permissible under law.

Accordingly, we **dispose of** all the writ petitions by providing that the respondents shall not demolish the existing constructions without following the procedure of law. However, it will be open to them to enter into negotiations with the petitioners for acquisition of title over the land which is going to be affected by widening of the road. In cases, where the person concerned has already given consent, it shall be open to the respondents to proceed further in the matter in accordance with law.

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

Order Date :- 11.12.2023

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