

**Court No. - 32**

**Case :-** WRIT - C No. - 33538 of 2023

**Petitioner :-** Smt. Gargi Dixit And 11 Others

**Respondent :-** State Of U.P. And 4 Others

**Counsel for Petitioner :-** Mohd. Wasim, Anuj Kumar Sharma

**Counsel for Respondent :-** CSC, Chandra Shekhar Singh

**Hon'ble Salil Kumar Rai, J.**

**Hon'ble Surendra Singh-I, J.**

The petitioners are members of Mayank Sahkari Awas Samiti Ltd., Moradabad whose land was acquired by the Uttar Pradesh Awas Vikas Parishad under sections 28 and 32 of the of the U.P Awas Evam Vikas Parishad Adihinium, 1965.

The compensation in respect of the acquired land was deposited with the Special Land Acquisition Officer.

The petitioners have filed the present petition praying for a mandamus commanding the respondent-authorities to pay compensation of the acquired property directly to the petitioners in proportion of their shares

This Court in a petition which raised a similar question of law and fact in Writ C No.16247 of 2018 (***Smt.Nidhi Agarwal and 7 others versus State of U.P and 4 others***) passed following orders on 2.7.2018.

"Heard Sri Mohd. Wasim, learned counsel for the petitioners, Sri Sharad Chand Srivastava, who has entered appearance on behalf of respondent nos. 1, 3 and 4 and Sri Ajit Rana for respondent no.2.

Certain land of the petitioners' society was subject matter of the acquisition by Avas Evam Vikas Parishad and the compensation in respect of the same was deposited with the Special Land Acquisition Officer. Prior to acquisition the society had transferred the land in shape of plots in favour of the petitioners and other members but somehow the names of the society continued in the revenue record on account of which the petitioners and other members, who are though legally entitled to receive the compensation, are facing difficulty in receiving the compensation. The claim is that respondents be directed to pay compensation directly to the petitioners and other members of the society in proportion to their share.

As a matter of fact, learned counsel appearing for the society and Avas Evam Vikas Parishad, has no objection to the prayer being granted.

However, the issue is one which requires an investigation into question of fact and no useful purpose would be served by keeping this petition pending and calling for a counter affidavit and interest of justice would stand served by directing a fact finding authority to enquire into the matter at the initial stage. From the pleadings, it is stated that petitioners and other members have already made representation in this regard before the District Magistrate, Moradabad.

Learned standing counsel fairly states that in case the society and the petitioners approach the District Magistrate, Moradabad by making fresh representation along with relevant records in support of their claim, the concerned authority shall proceed to consider and decide the matter expeditiously.

In such view of the matter, writ petition stands disposed of giving liberty to the petitioners to move an application before the District Magistrate, Moradabad annexing therewith all the relevant documents in respect of their share within one month from today with a direction to the District Magistrate, Moradabad that in case such application is filed, he shall fix a date for appearance of the parties and shall proceed to consider the claim and decide the same in accordance with law by a reasoned and speaking order after looking into the relevant records and after giving opportunity of hearing to all concerned within a period of two months from the date of filing of the application."

The counsel for the petitioners states that the issue raised in the present case is identical to the issues as raised in Writ C No.16247 of 2018 and the said fact was not disputed by the counsel for the respondents.

In view of the aforesaid, the petition is ***disposed of*** in the same terms as noted in the order dated 2.7.2018 passed in Writ C No.16247 of 2018.

**Order Date :- 17.10.2023**

IB