

Court No. - 21

Case :- WRIT - C No. - 35070 of 2023

Petitioner :- Madhvendra Narayan Misra

Respondent :- Union Of India And 3 Others

Counsel for Petitioner :- Dinesh Rai, Chandrahas Singh Gautam

Counsel for Respondent :- A.S.G.I., C.S.C., Shivesh

Mishra, Surabhi Pandey, Suresh Chandra Pandey, Vivek Kumar Singh

Hon'ble Manoj Kumar Gupta, Acting Chief Justice

Hon'ble Kshitij Shailendra, J.

1. Heard Shri Dinesh Rai, learned counsel for the petitioner, Shri Vivek Kumar Singh, learned counsel for respondent No.1-Union of India, Shri Rajiv Gupta, learned Additional Chief Standing Counsel for respondent No.2 and Shri Suresh Chandra Pandey for respondent Nos.3 and 4.

2. The instant petition has been filed for quashing of the order dated 21.09.2023 passed by respondent no.2 i.e. the Competent Authority/Special Land Acquisition Officer, Prayagraj deciding title in respect of the super-structure existing over the acquired land.

3. The petitioner and respondent nos.3 and 4 both claim title over the super-structure. The said issue has been decided by the Competent Authority in purported exercise of powers under the Railways Act, 1989, under which, the acquisition was made.

4. The short submission of counsel for the petitioner is that the dispute relating to the person entitled to compensation has to be referred to the principal civil court of original jurisdiction in terms of Section 20-H (4) of the Railways Act, 1989 which reads as

follows:-

"20H (4):- If any dispute arises as to the apportionment of the amount or any part thereof or to any person to whom the same or any part thereof is payable, the competent authority shall refer the dispute to the decision of the principal civil court of original jurisdiction within the limits of whose jurisdiction the land is situated."

5. Counsel for respondent Nos.3 and 4 is not in a position to dispute the said proposition of law. He, however, submits that the question of title over super-structure has been rightly decided by the Competent Authority.

6. As the parties dispute title in respect of super-structure existing over the acquired land, in our considered opinion, the said dispute ought to have been referred to the principal civil court of original jurisdiction as it falls squarely within the ambit of its jurisdiction in terms of sub-section (4) of Section 20-H of the Act. Consequently, the impugned order so far it decides rival claim in respect of title over super-structure is hereby set aside.

7. The respondent No.2 is directed to refer the said dispute to the principal civil court of original jurisdiction for being decided in accordance with law. The compensation amount paid to respondent nos.3 and 4 for the super-structure shall abide by the decision that shall be taken by the principal civil court of original jurisdiction.

8. The writ petition stands **disposed of**.

Order Date :- 16.12.2023

Jyotsana

(Kshitij Shailendra, J.) (Manoj Kumar Gupta, A.C.J.)