Court No. - 21

Case :- WRIT - C No. - 35487 of 2023

Petitioner :- Jilay Singh Bhati And 31 Others
Respondent :- State Of U.P. And 2 Others
Counsel for Petitioner :- Ganga Dhar Shukla
Counsel for Respondent :- C.S.C,Anjali Upadhya

Hon'ble Manoj Kumar Gupta,J.
Hon'ble Donadi Ramesh,J.

1. Heard counsel for the petitioner, learned standing counsel for the State respondents and Ms. Anjali Upadhya for Greater Noida Authority.

2. The instant petition has been filed praying for quashing of order dated 21.9.2016 passed by the State Government and for a further direction to the respondents to allot remaining 4% developed land to the petitioners in terms of judgement dated 21.10.2011 in **Gajraj and others Vs. State of U.P. and others** reported in **2011 (11) ADJ 1 (FB)**.

3. The facts which are not in dispute are that the land of the petitioners was acquired in terms of notifications issued under the Land Acquisition Act, 1894. The same notifications were subject matter of challenge before the Full Bench in **Gajraj** (supra). The petitioners did not challenge the notifications nor were party in Gajraj or any other connected cases. They have been awarded compensation for the acquired land and in addition thereto, they have also been paid additional compensation to the extent of 64.70%. Additionally, they have been provided 6% developed land as per policy of the Greater Noida Authority.

4. The Greater Noida Authority in its 104th Board meeting resolved to allot 10% developed land to every affected tenure holder irrespective of the fact whether he had challenged the acquisition proceedings or not. The decision taken by it was not approved by the State Government vide impugned communication dated 21.09.2016. The Supreme Court in **Savitri Devi** (Civil Appeal No.4506 of 2015 decided on 14.05.2015) while considering challenge to the Full Bench judgement in **Gajraj** held that direction for allotment of 10% additional land would not form precedent for future cases. This Court in **Runwell India Private Limited Vs. State of U.P. and others (Writ-C No.14113 of 2017)** decided on 31.05.2022, wherein the same decision of the State Government dated 21.09.2016 was under scrutiny, upheld the same holding that the persons who were not party before this Court in earlier round of litigation, would not get the benefit of additional developed land. The relevant portion from the said judgement is extracted below:-

"42. The State Government has not filed any counter affidavit disputing

the claim of the petitioners. Only oral objections have been raised disputing the claim of the petitioners. It is only during the course of hearing that the letter/order of the State Government dated 21.09.2016 was placed before us. It is on the basis of the aforesaid letter/order of the State Government that Mr. Vineet Pandey, learned Chief Standing Counsel, has submitted before us that the State Government has rightly refused to accord its approval/sanction to the resolution of the Greater Noida Authority dated 14.03.2016 passed in its 104th Board meeting, as the Apex Court in Savitri Devi's and subsequently, in Khatoon's cases (supra) has held that the order passed by the High Court shall not form precedent for future cases.

43. The Greater Noida Authority has taken a specific stand before us that no allotment of land can be made without sanction/approval of the State Government. As the decision taken by the Greater Noida Authority to allot 10% of developed land subject to the ceiling limit of 2,500 square meters has not been approved by the State Government, the Greater Noida Authority has consequently passed the resolution dated 22.08.2019 in its 115th Board meeting, whereby, a decision has been taken to recall the proposal formulated vide resolution dated 14.03.2016.

44. In view of the judgements of the Apex Court in Savitri Devi's and Khatoon's cases (supra), where the Apex Court has very categorically held that the order passed by the High Court, in the peculiar facts & circumstances, would not form precedent for future cases, no claim can be made on the basis of the Full Bench judgement of this Court in Gajraj's case (supra) and the State Government has rightly refused to accord its approval/sanction to the resolution dated 14.03.2016 passed by the Greater Noida in its 104th Board's meeting."

5. Counsel for the petitioners is not in a position to show us any contrary view on the above issue.

6. Accordingly, giving due deference to the law laid down in **Runwell India Private Limited**, the instant petition is hereby dismissed.

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

Order Date :- 1.11.2023
SL

Digitally signed by :-
SHYAM LAL
High Court of Judicature at Allahabad