

Court No. - 21

Case :- WRIT - C No. - 37194 of 2023

Petitioner :- Pratap Bagh Sehkari Awas Samiti Ltd. And Another

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

Counsel for Petitioner :- Sundeep Agarwal

Counsel for Respondent :- C.S.C.,Ravi Prakash Pandey

Hon'ble Manoj Kumar Gupta,J.

Hon'ble Donadi Ramesh,J.

1. The instant petition has been filed praying for a writ of mandamus directing the respondents to pay compensation to the petitioner in accordance with the provisions of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

2. The admitted facts are that land of Khata No. 87, Gata No. 945 was purchased by the petitioners Society on 23.10.2004 after issuance of notification dated 16.10.2004 under Section 4 of the Land Acquisition Act, 1894. The notification under Section 6 was issued on 31.10.2005. The petitioner entered into agreement with the respondents for compensation amount and accordingly award dated 07.11.2013 was passed. The petitioner Society admits that it had also been paid compensation amount as per the award. It seems that some other tenure holders affected by the same acquisition proceedings challenged the same and ultimately the Supreme Court by order dated 30.11.2016 disposed of the appeals filed by such persons in the following manner:

"i) Though this Court is interfering with the acquisition proceedings as a whole, yet it directs that there will be no obligation on the part of the acquiring Authority to return any part of the land to any of the landowners. In other words, the acquiring Authority would have the option to retain entire of the land acquired by the notifications in question. In such an event, only in respect of the land of the appellants before this Court [stated to be 76 in number and the area involved 281 acres, approximately] the date of the present order will be deemed to be the date of a fresh notification for acquisition of the aforesaid land of the appellants before this Court. We repeat to make it clear that for the rest of the land acquired and in respect of the landowner who may have received any part of the compensation the aforesaid directions would have no application. The compensation to be determined on the basis of the deemed notification, as directed, will be in accordance with

the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and claims of compensation for constructions that may have come up on the acquired land prior to the dates of original Notifications (16th October, 2004 and 11th November, 2004) will also be considered by the Collector on their own merits."

3. The Supreme Court is clear on the aspect that only persons who were appellants before it would be entitled to redetermination of compensation in terms of the direction issued in the judgment. Rest of the land owners who had received any part of the compensation would not get benefit of the said judgment. Thereafter, in pursuance of the order of the Supreme Court, the respondents redetermined the compensation amount by award dated 17.05.2019.

4. The petitioner Society knowing fully well that it is not entitled to benefit of the order of the Supreme Court has filed the instant petition relying on the said judgment. The petitioner has also not disclosed in the writ petition that there was agreement between the petitioner and the respondents in respect of compensation amount and award dated 07.11.2013 was passed keeping in mind the said fact.

5. The said fact has been brought to our knowledge by Shri J.N. Maurya, learned counsel appearing for respondent No. 3. He has invited our attention towards Form 11, which clearly mentions the fact that compensation amount was calculated as per agreement between the parties.

6. We are of the considered opinion that writ petition is wholly frivolous and has been filed by concealment of material facts. It is **dismissed** with a cost of Rs.25,000/- to be deposited by the petitioner before the Mediation and Conciliation Centre of this Court within two weeks from today failing which the said amount would be recovered from the petitioner as arrears of land revenue through the Registrar General of this Court.

Order Date :- 30.10.2023

Mukesh Kr.

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