

Court No. - 40

Case :- WRIT - C No. - 39337 of 2023

Petitioner :- Shivnarayan Singh and 2 Others

Respondent :- State Of U.P. and 3 Others

Counsel for Petitioner :- Suresh Singh

Counsel for Respondent :- C.S.C.

Hon'ble Mahesh Chandra Tripathi,J.

Hon'ble Prashant Kumar,J.

1. Heard Shri Suresh Singh, learned counsel for the petitioners and Shri Devesh Vikram, learned Additional Chief Standing Counsel for the State-respondents.

2. By means of present writ petition, the petitioners have sought following reliefs:-

"(i) issue a writ, order or direction in the nature of certiorari for quashing the order dated 08.09.2022 passed by respondent no. 3, against the petitioner by rejecting the representation of the petitioners.

(ii) issue a writ, order or direction in the nature of mandamus commanding the respondent-authorities to execute the sale-deed of petitioners' land in so far it relates to Gata nos. 133, 34 situated at village- Gaibojh, Tehsil and District-Pilibhit and make the payment of compensation as per current circle-rate to the petitioners."

3. The petitioners claim to be bhumidhar and owner of Gata Nos.133 area 0.3430 and Gata No.34 area 1.416 hectare situated in Village Gaiboj, District Pilibhit. The State Government proposed to construct Pilibhit - Basti bye-pass road and for that purpose, the land was sought to be taken from various tenure holders on the basis of agreement to be executed in view of Government order dated 19.3.2015. A meeting was held on 19.5.2016 as per the Government order dated 19.3.2015 presided over by the District Magistrate and the same was also published in daily newspaper "Aaj" on 11.6.2016, wherein it was mentioned that the land would be purchased from the tenure holders through mutual settlement at the prescribed circle rate fixed on 01.08.2015. In pursuance of the said notice, the meeting was held on 11.07.2016 in which the rate was fixed for the proposed road to be constructed by the Public Work Department. The Commissioner of the Division had approved the rate determined by the Committee on 09.08.2016. As per Government order dated 19.03.2015 the amount of compensation is to be paid four times to the market value of the land.

4. Thereafter, the petitioners filed Writ C No.55352 of 2016 and the same was disposed of by a coordinate Bench of this Court on 23.11.2016 directing the Commissioner to consider the grievance of the petitioners and pass an appropriate order within six weeks. In compliance thereof, the respondent no.2 without considering the aforesaid Government order had issued a new rate list on 13.01.2017. Again the petitioners had preferred Writ C No.28272 of 2017 (Shiv Narain Singh and others vs. State of UP and others), which was disposed of by the Division Bench of this Court on 07.12.2021 asking the petitioners to file representation before the Committee in terms of the order dated 02.11.2021 passed in Writ C No.25425 of 2021 (**Ram Kailash Nishad and others vs. State of UP and others**) in which direction has been issued to the authority concerned to dispose of all pending applications upto February 18, 2022. Thereafter, the petitioners filed a representation before the respondents stating therein that the compensation is to be given four times of the prevalent market rate.

5. Learned counsel for the petitioners in this backdrop submits that neither the land of the petitioners have been acquired nor any sale deed was executed by the petitioners in favour of Public Works Department but the respondents started construction of road on 08.02.2017 and completed the construction from the petitioners' land even without giving any compensation to the same. Again the petitioners filed Writ C No.28272 of 2017 (Shiv Narain Singh and others vs. State of UP and others) and the same was disposed of by this Court on 07.12.2021 asking the petitioners to file representation before the Committee in terms of the order dated on 02.11.2021 in Writ- C No. 25425 of 2021 (Ram Kailash Nishad & Others v. State of U.P. and Others). By the impugned order dated 08.09.2022 the Collector, District- Pilibhit (respondent no.3) has rejected the representation of the petitioner. He submits that in the light of the Government Order dated 12.05.2016 the petitioners are entitled to receive the compensation at present market rate.

6. Learned Additional Chief Standing Counsel has vehemently opposed the writ petition on three-fold submissions; firstly on the ground that the present writ petition is preferred with a delay of 328 days. Secondly, the earlier Writ-C No. 28272 of 2017 filed by the petitioners was disposed of by this Court on 07.12.2021 with an observation that the claim of the petitioners are to be addressed by the competent authority in the light of the Government Order dated 12th May, 2016 and directed the petitioners to file representation before the Committee in terms of the order dated 02nd November, 2021 passed in Writ-C No. 25425 of 2021.

Thirdly, once the claim has already been settled and the same has not been challenged within reasonable time, then the writ petition is liable to be dismissed on account of delay and laches.

7. The grievance of the petitioners is that the land in question was taken by the respondents for the construction of road and till date, the compensation has not been paid to them. The Division Bench has also considered the said claim on the basis of Government Order dated 12th May, 2016 and admittedly, even in the aforementioned writ petition, the belated claim has been set up but on account of non-disbursement of compensation in the light of relevant Government Order, the Division Bench had disposed of the writ petition No.28272 of 2017 vide an order dated 07.12.2021 with an observation that the authority has to consider the claim of the petitioners in the light of the judgement passed in Ram Kailash Nishad (supra). Admittedly, in response thereof, the order was passed, wherein, the leave was accorded to the petitioner to receive the compensation at the rate prevailing in the year 2015.

8. We are not inclined to entertain the writ petition at this belated stage. Needless to say that in case, the petitioners approach the authority concerned within two weeks from today, definitely the compensation is to be released in further six weeks' time.

9. With the aforesaid observation, in the light of the order dated 08.09.2022, the writ petition stands **disposed of**.

Order Date :- 16.11.2023

Rama Kant