

Court No. - 21

Case :- WRIT - C No. - 41052 of 2023

Petitioner :- Jitendra Kumar

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

Counsel for Petitioner :- Sanjay Kumar Mishra

Counsel for Respondent :- C.S.C.,Anuj Pratap Singh,Mahesh Narain Singh

Hon'ble Manoj Kumar Gupta,Acting Chief Justice
Hon'ble Donadi Ramesh,J.

1. The petitioner has challenged the order dated 21.04.2022 passed by Special Land Acquisition Officer, rejecting the application filed by the petitioner, under Section 28-A of the Land Acquisition Act, 1894 on the ground that it is barred by time by nine days.

2. Learned counsel for the petitioner submits that an identical order passed on the same date and wherein also it was held that the application was beyond time by nine days was subject matter of challenge in **Writ C No. 15497 of 2023 (Jitendra Singh and 2 Others Vs. State of U.P. and 3 Others)**. The writ petition was allowed by a Co-ordinate Bench and Special Land Acquisition Officer was directed to take fresh decision.

3. The order passed in the said writ petition, is quoted below:

"Sri Anuj Pratap Singh, learned counsel has received notice on behalf of respondent No.4.

Sri J.N.Maurya learned counsel appears for the State respondent.

Challenge is to the order dated 21.4.2022 passed by the Special Land Acquisition Officer on the ground that the application under Section 28-A of the Land Acquisition Act, 1894 has been rejected on highly technical ground.

It is contended that though the land acquisition reference was decided by the competent Court on 4.4.2012 and the compensation for the land in question was finalized, the petitioner had moved an application under Section 28-A of the Land Acquisition Act, 1894 on 4.7.2012 itself, but it was not marked in the office of Special Land Acquisition Officer uptill 12.7.2012, and the application has been treated beyond time by 9 days. The contention is that the period during which the application remained in the office of Special Land Acquisition Officer, without adverting to it, cannot be saddled upon the petitioner.

Be that as it may, a perusal of the record indicates that the petitioner was not aware of the award of the land reference which was passed on 4.4.2012.

After getting the award, if the petitioner moved an application by delay of 9 days, it should have been condoned by the Special Land Acquisition Officer. The rejection order, being highly technical is, therefore, set aside. The writ petition is allowed.

The matter is relegated back to the Competent Authority for fresh decision in accordance with law."

4. Sri Mahesh Narain Singh, learned counsel appearing on behalf of respondent no.4 and Sri Rajiv Gupta, learned Additional Chief Standing Counsel appearing for the State-respondents are not in a position to show that the facts of the instant case are in any manner different from that of **Jitendra Singh (supra)**.

5. Accordingly, the instant petition also stands disposed of in same terms.

(Donadi Ramesh, J.)

(Manoj Kumar Gupta, ACJ.)

Order Date :- 29.11.2023

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