

Court No. - 21

Case :- WRIT - C No. - 42514 of 2023

Petitioner :- Dan Singh

Respondent :- State Of U.P. And 7 Others

Counsel for Petitioner :- Phool Singh

Counsel for Respondent :- C.S.C,Naresh Chandra Nishad

Hon'ble Manoj Kumar Gupta,Acting Chief Justice

Hon'ble Kshitij Shailendra,J.

1. Sri Vivek Ratan Agarwal has filed vakalatnama on behalf of the respondent no.8, which is taken on record.

2. The petitioner has assailed the order dated 25.09.2023 passed by the District Magistrate, Kanpur Nagar rejecting the representation of the petitioner dated 27.04.2023 wherein he had prayed for compensation being paid to him on account of the respondents having taken over 0.4410 hectare of Gata No.172-M.

3. The admitted facts are that the petitioner is owner of the subject land. Gata No.172 is a big gata having total area 14.2470 hectare. There are several persons having their land over Gata No.172. The State acquired for the benefit of N.T.P.C. an area measuring 5.6950 hectare of plot no.172 for setting up a thermal power plant.

4. The case of the petitioner is that N.T.P.C. while taking possession of the area acquired had also encroached upon the adjoining land over which the petitioner was in possession.

5. While deciding the representation, the District Magistrate, Kanpur Nagar has relied on a report of Tehsil Authorities wherein it is mentioned that the boundary wall was constructed by N.T.P.C. only over the area acquired by it. The land of the petitioner lies beyond the acquired area. The order does not reveal that any survey was carried out, which was essential to identify the land of the petitioner as well as the land which was actually acquired for the benefit of N.T.P.C. For the said purpose a fixed point should have been determined and, thereafter, the land of the petitioner as well as that of N.T.P.C. could be located on the survey map. The same having not been done, we are of the considered opinion that the impugned order based on mere site inspection report of the Tehsil Authorities is not sustainable in law and is hereby quashed.

6. The writ petition is, accordingly, allowed.

7. The District Magistrate, Kanpur Nagar is directed to constitute a team of revenue officials to carry out fresh survey of the site. The survey report will clearly identify the land of the petitioner as well as the land of N.T.P.C. which had been acquired. The area found to be in possession of the petitioner shall be clearly disclosed. The survey shall be done in the presence of the petitioner. The District Magistrate, Kanpur Nagar will, thereafter, pass fresh order after hearing the petitioner.

Order Date :- 15.12.2023
AKShukla/-

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