

Court No. - 32

Case :- WRIT - C No. - 42814 of 2023

Petitioner :- Rajesh Kumar Jaiswal And 10 Others

Respondent :- State Of U.P. And 5 Others

Counsel for Petitioner :- Amrendra Nath Rai, Santosh Kumar Singh

Counsel for Respondent :- CSC, Praveen Kumar Giri

Hon'ble Salil Kumar Rai, J.

Hon'ble Syed Qamar Hasan Rizvi, J.

1. Heard the counsel for the parties.
2. The grievance of the petitioners in the present writ petition is that his plots are being encroached and taken over by the State-respondents for widening of the road without there being any acquisition under any law for the said purpose.
3. The averments of the petitioners are that the constructions are in existence over the said plot since long and they have not been served any notice by the respondents, but the respondents are threatening to demolish the construction of the petitioners. It has been further claimed in the writ petition that the case of the petitioner is identical to the case set up in Writ- C No. 32632 of 2023 and other connected writ petitions which were decided by a co-ordinate Bench of this Court vide its order dated 11.12.2023. The relevant extracts of the order dated 11.12.2023 is reproduced below:

"It is thus evident that there is no compulsory acquisition of land of any of the petitioners but the respondents are in the process of obtaining title over the land of affected persons on basis of mutual negotiations.

Sri Rajiv Gupta, learned Additional Chief Standing Counsel states that the constructions are also in the nature of encroachment but he admits that till date, there is no order of demolition in respect of any of the petitioners.

The respondents cannot demolish the constructions of the petitioners without there being an order in this behalf having been passed in accordance with law. Moreover, in case, respondents are interested in obtaining the land of the petitioners for widening of the road through mutual negotiations, it is always open to them to proceed with the said exercise but in case any person does not agree to it, he cannot be compelled to part with his land and in such case the only option available is to compulsorily acquire the land of that person as permissible under law.

Accordingly, we dispose of all the writ petitions by providing that the

respondents shall not demolish the existing constructions without following the procedure of law. However, it will be open to them to enter into negotiations with the petitioners for acquisition of title over the land which is going to be affected by widening of the road. In cases, where the person concerned has already given consent, it shall be open to the respondents to proceed further in the matter in accordance with law."

4. It is admitted by the learned Standing Counsel that the facts of this case are similar to the facts of Writ- C No. 32632 of 2023.

5. In view of aforesaid, the writ petition is disposed of in terms of the order dated 11.12.2023 and other connected petitions, with the direction that the constructions of the petitioners shall not be demolished without following the procedure of law and it will be open to the State-respondents to enter into negotiations with the petitioners for acquisition of title over the land which may be affected due to widening of the road.

6. With the aforesaid direction, the writ petition is ***disposed of***.

Order Date :- 12.12.2023

Abhishek Gupta