

Court No. - 3

Case :- WRIT - C No. - 2000039 of 2008

Petitioner :- Jamal Nadir Son Of Sri Abdul Nadir

Respondent :- State Of U.P.Through Secretary
Avas Civil Secretariat Luckno

Counsel for Petitioner :- S.M.Waseem,Anuj
Dayal,Kshemendra Shukla,Mohiuddin
Khan,Shabnam Bano,V.R.Ojha,V.S.Ojha

Counsel for Respondent :- C.S.C.,Jyotinjay
Verma,Suresh Chandra

Hon'ble Vivek Chaudhary,J.

Hon'ble Manish Kumar,J.

Heard learned counsel for the petitioner and the learned Standing Counsel.

Petitioner has approached this Court challenging the order dated 12.09.2008 passed by the respondent no.2/Additional District Magistrate (L/A), Nagar Mahapalika, 1st, Lucknow. By the said order, respondent no.2, has decided the dispute of apportionment with regard to Khasra No.138, situated at Village: Malesey Mau, Lucknow as well as Khasra No.325.

Learned counsel for petitioner submits that claim of the petitioner is only with regard to half of the portion of Khasra No.138.

Admittedly, there was a dispute raised by Smt. Aneesa Bano and once the dispute with regard to apportionment was raised, it was incumbent upon the respondent no.2 to refer the matter under Section 30 of the Land Acquisition Act, 1894 to the appropriate Court, but the respondent no.2, instead of referring the matter under Section 30 of the Land Acquisition Act, 1894, he has himself proceeded to decide the same and passed the order which is without jurisdiction.

With the assistance of learned counsel for petitioner and the learned Standing Counsel, this Court has perused the said impugned order and a

perusal thereof shows that there was a dispute raised by Smt. Aneesa Bano with regard to apportionment of Khasra No.138. Thus, if such a dispute was raised by one of the parties, the power of respondent no.2/Additional District Magistrate (L/A), Nagar Mahapalika, 1st, Lucknow was only to refer the matter under Section 30 of the Land Acquisition Act to the appropriate Court.

In view of the aforesaid, the impugned order dated 12.09.2008, to the extent the same relates to Khasra No.138, situated at Village: Malesey Mau, Lucknow, is hereby set aside.

Respondent no.2/Additional District Magistrate (L/A), Nagar Mahapalika, 1st, Lucknow, is directed to refer the matter to the appropriate Court within a period of four weeks from the date a certified copy of this order is served upon him. The Court concerned is also expected to decide the matter as expeditiously as possible, as the same is very old.

The writ petition is allowed.

(Manish Kumar, J.) (Vivek Chaudhary, J.)

Order Date :- 6.11.2023
Arjun/-