

Reserved**Court No. - 12****Case :- APPLICATION U/S 482 No. - 10874 of 2023****Applicant :- Komal Agarwal****Opposite Party :- State Of U.P. Thru. Addl. Chief Secy/ Prin. Lko And 2 Others****Counsel for Applicant :- Akshat Kumar****Counsel for Opposite Party :- G.A., Devrishi Kumar****And****Case :- APPLICATION U/S 482 No. - 10875 of 2023****Applicant :- Shalini Mahawar****Opposite Party :- State Of U.P. Thru. Prin. Secy. Lko And 2 Others****Counsel for Applicant :- Akshat Kumar****Counsel for Opposite Party :- G.A.****And****Case :- APPLICATION U/S 482 No. - 10879 of 2023****Applicant :- Kaushal Kishore****Opposite Party :- State Of U.P. Thru. Addl. Chief Secy. Prin. Secy. Home And 2 Others****Counsel for Applicant :- Akshat Kumar****Counsel for Opposite Party :- G.A.****And****Case :- APPLICATION U/S 482 No. - 10880 of 2023****Applicant :- Mukesh Mahawar****Opposite Party :- State Of U.P. Thru. Addl. Chief Secy./Prin. Secy. (Home) Lucknow And 2 Others****Counsel for Applicant :- Akshat Kumar****Counsel for Opposite Party :- G.A.****And****Case :- APPLICATION U/S 482 No. - 10881 of 2023****Applicant :- Mahesh Mahawar****Opposite Party :- State Of U.P. Thru. Addl. Chief Secy. /Prin. Secy. Home Lko. And 2 Others****Counsel for Applicant :- Akshat Kumar****Counsel for Opposite Party :- G.A.****And****Case :- APPLICATION U/S 482 No. - 10883 of 2023****Applicant :- Dalvir Kaur****Opposite Party :- State Of U.P. Thru. Addl. Chief Secy. Prin. Secy. Home And 2 Others**

Counsel for Applicant :- Akshat Kumar

Counsel for Opposite Party :- G.A.

And

Case :- APPLICATION U/S 482 No. - 10885 of 2023

Applicant :- Dinesh Kumar Agarwal

Opposite Party :- State Of U.P. Thru. Addl. Chief Secy./Prin. Secy. (Home) Lucknow And 2 Others

Counsel for Applicant :- Akshat Kumar

Counsel for Opposite Party :- G.A.

And

Case :- APPLICATION U/S 482 No. - 10886 of 2023

Applicant :- Vimla Agrawal

Opposite Party :- State Of U.P. Thru. Addl. Chief Secy. Home And 2 Others

Counsel for Applicant :- Akshat Kumar

Counsel for Opposite Party :- G.A.

And

Case :- APPLICATION U/S 482 No. - 10887 of 2023

Applicant :- Ranjeet (Deceased) Thru. Legal Representative Raghvendra Pratap Singh

Opposite Party :- State Of U.P. Thru. Addl. Chief Secy. Prin. Secy. Home And 2 Others

Counsel for Applicant :- Akshat Kumar

Counsel for Opposite Party :- G.A.

And

Case :- WRIT - C No. - 30880 of 2019

Petitioner :- Vimala Agarwal And Ors.

Respondent :- State Of U.P. Thru. Director Land Acquisition Board Of Rev. Andors

Counsel for Petitioner :- Aastha Mishra, Anantika Singh

Counsel for Respondent :- C.S.C., A.S.G., Devrishi Kumar

And

Case :- WRIT - C No. - 30897 of 2019

Petitioner :- Ajay Pal Singh And Ors.

Respondent :- State Of U.P. Thru. Director Land Acquisition Board Of Rev. Andors

Counsel for Petitioner :- Aastha Mishra, Anantika Singh

Counsel for Respondent :- C.S.C., A.S.G., Devrishi Kumar

And

Case :- WRIT - C No. - 30811 of 2019

Petitioner :- Pooja Aggarwal And Ors.

Respondent :- State Of U.P. Thru. Director Land Acquisition Revenue And Ors.

Counsel for Petitioner :- Aastha Mishra, Ananttika Singh
Counsel for Respondent :- C.S.C., A.S.G., Devrishi Kumar
And

Case :- WRIT - C No. - 30894 of 2019
Petitioner :- Dinesh Agarwal And Ors.
Respondent :- State Of U.P. Thru. Director Land Acquisition Board Of
 Rev. Andors
Counsel for Petitioner :- Aastha Mishra, Ananttika Mishra
Counsel for Respondent :- C.S.C., A.S.G., Devrishi Kumar
And

Case :- WRIT - C No. - 30906 of 2019
Petitioner :- Anand Vrat Nigam And Ors.
Respondent :- State Of U.P. Thru. Director Land Acquisition Board Of
 Rev. Andors
Counsel for Petitioner :- Aastha Mishra, Ananttika Singh
Counsel for Respondent :- C.S.C., A.S.G., Devrishi Kumar
And

Case :- WRIT - C No. - 30902 of 2019
Petitioner :- Vimala Agarwal
Respondent :- State Of U.P. Thru. Director Land Acquisition Board Of
 Rev. Andors
Counsel for Petitioner :- Aastha Mishra, Ananttika Singh
Counsel for Respondent :- C.S.C., A.S.G., Devrishi Kumar

Hon'ble Rajeev Singh, J.

1. Heard Mr. Vivek Raj Singh, Senior Advocate assisted by Mr. Shantanu Sharma, learned counsel for the applicants/petitioners, Mr. Rao Narendra Singh, learned AGA and Mr. S.B. Pandey, Deputy Solicitor General assisted by Mr. Devrishi Kumar as well as Mr. Susheel Pratap Singh, Tehsildar- Lakhimpur Kheri.

2. The Applications U/S 482 Nos.- 10874 of 2023, 10875 of 2023, 10879 of 2023, 10880 of 2023, 10881 of 2023, 10883 of 2023, 10885 of 2023, 10886 of 2023, 10887 of 2023 have been filed seeking quashing of the entire proceedings as well as order dated 25.08.2023 passed by District and Sessions Judge, Lakhimpur Kheri in Revision No.80/2019 (Komal Agarwal Vs. Hare Krishna Gupta and Ors.) as well as order dated 28.08.2018 passed by Chief Judicial Magistrate, Lakhimpur Kheri.

3. The Writ-C No.30880 of 2019, 30897 of 2019, 30811 of 2019, 30894 of 2019, 30906 of 2019 and 30902 of 2019 have been filed with a common prayer which is quoted as under:

“I. Issue a writ, order or direction in the nature of mandamus issuing direction to opposite parties no.2, 3 and 4 that the prevalent circle rate of 2017 i.e. Rs.4400/- per sqm should be paid to the Petitioners in terms of Government Order dated 19.03.2015 and not the amount of Rs.1630/- per sqm. For the balance of sale consideration a Supplementary Sale Deed should be executed between opposite party no.2 and the Petitioners.

II. Issue a writ, order or direction in the nature of mandamus that a multiplier of 4 should be used to the circle rate of 2017 and not the multiplier of 3:1 times which is not contemplated even in the Government Order dated 19.03.2015.

III. Issue a writ, order or direction in the nature of mandamus commanding Opposite Parties 1, 2 and 4 to make payment of damages under Section 28 of the Land Acquisition Act, 1894 and Section 72 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 from the date of possession being taken till the payment of the actual amount after the execution of the sale deeds.

IV. Issue any other writ, order or direction which this Hon'ble Court may deem fit and proper in the circumstances of the case.

V. To allow the Writ Petition with cost.”

4. As all the applications have been filed assailing the same proceedings, hence, are being decided by this common order.

5. Mr. Vivek Raj Singh, Learned Senior Counsel submitted that the applicants/petitioners were the recorded tenure holders of the property in question and process for acquiring certain lands of area in question was initiated by the State Authority for the construction of residential accommodation of the personnel of Sashastra Seema Bal (hereinafter referred to as "SSB") in Lakhimpur Kheri. He further submitted that a notification under Section 4 read with Section 17(4) of the Land Acquisition Act, 1894 (hereinafter referred to as "the Act, 1894") was issued on 17.09.2008, thereafter, notification under Section 6 of the Act, 1894 was issued on 16.09.2009 but the land of the applicants/petitioners were not included in the list, but consequently, possession of the plots of applicants/petitioners were handed over to SSB by the district administration.

6. Learned Senior Counsel submitted that in the year of 2012, SSB started constructing a boundary wall over the entire land area ad-

measuring 32.730 hectares, and forcibly, the possession over the plots of the applicants/petitioners was also taken without acquiring the same which was situated inside the boundary of the acquired land, thereafter, the protest was made before the District Magistrate, Lakhimpur Kheri and Commandant SSB, Lakhimpur Kheri but no heed was paid. He further submitted that the applicants/petitioners approached the Special Land Acquisition Officer, in the month of February, 2013 where they were told that their land was not acquired, therefore, there is no question of paying them any compensation then the aggrieved persons moved a joint representation dated 11.02.2013 stating therein that either their land should be returned to them or they should be paid compensation based four times of the prevalent circle rate of that time.

7. Mr. Learned Senior Counsel submitted that the applicants/petitioners moved a representation in the month of March, 2013 before the District Magistrate, Lakhimpur Kheri stating that their lands have been forcibly occupied by SSB without any acquisition. He further submitted that District Land Acquisition Officer wrote to DIG, SSB, Lakhimpur Kheri on 22.04.2014 stating that the lands of the aggrieved persons which form part of 1.5809 hectares has been acquired by SSB and as per the prevailing circle rate on 01.08.2013, it was Rs.2800/- square meter and, therefore, amount of Rs.4,42,65,200/- should be paid as value of the land with an equal sum of solatium along with 12% interest as such the total amount claimed by the District Land Acquisition Officer was Rs.9,38,42,224/-, in the meantime, the Government issued an order dated 01.01.2014 implementing the Land Acquisition Act, 2013, under the said Act, the market value of the land being acquired is to be determined in accordance with the provisions of Section 26 of the Land Acquisition Act, 2013 and in case of the rural areas, the compensation has to be awarded four times of the market value which has been determined including 100% solatium also.

8. Learned Senior Counsel submitted that on 27.03.2017, SSB wrote a letter to all the land owners having their plots within the area of 1.5809 hectares for executing the agreements for purchasing the lands

as the applicants/petitioners being the agriculturalists were not aware of the prevailing circle rates in the year of 2016-17 and as such the District Administration with the fraudulent intent misrepresented the circle rate to be Rs.2500/- square meter for the Abadi land which was Rs.4400/- per square meter actually and persuaded the recorded tenure holders that the compensation would be given on the same, thereafter, SSB entered into an agreement with them on 30.03.2017 stating therein that the applicants/petitioners would be paid compensation four times of prevailing circle rate i.e. Rs.2500/- square meter. He further submitted that District Administration as well as the officials of SSB took advantage of the unawareness of the farmers (applicants/petitioners) about the circle rate and misled them to sign the agreement dated 30.03.2017.

9. Learned Senior Counsel submitted that the District Magistrate, Lakhimpur Kheri and Commandant, SSB Lakhimpur Kheri coerced the farmers (applicants/petitioners) into executing the sale deeds and the sale deeds were executed on 03.05.2018. He further submitted that as the sale deeds were executed at the rate of Rs.1630 per square meter, a complaint was made to the State Government on 26.07.2018 but no action was taken, thereafter, the applications under Section 156(3) Cr.P.C. were moved by the farmers (applicants/petitioners) for lodging of the F.I.R. against the Commandant, SSB but the Chief Judicial Magistrate, Lakhimpur Kheri rejected the same by way of impugned order with the observation that no any offence was made out, thereafter, criminal revisions were also filed before the Revisional Court against the order of rejection but the same were also rejected on the ground that no criminal ingredients were found in the complaint as the dispute came into the category of civil nature.

10. Learned Senior Counsel submitted that as it is a fraud committed by the Government officials with the recorded tenure holders, therefore, in accordance with the provisions of Section 154 Cr.P.C. read with Section 156(3) Cr.P.C. and law laid down by Hon'ble Apex Court in the case of *Lalita Kumari Vs. Government of U.P. and Ors.* Reported in (2008) 7 SCC 164 it is obligatory on the part of

Magistrate to order for lodging of the F.I.R. as well as investigation of the case, therefore, kind indulgence of this Court is necessary.

11. Shri Rao Narendra Singh, learned A.G.A. as well as Shri S.B. Pandey, Deputy Solicitor General assisted by Shri Devrishi Kumar, learned counsel for the private respondent and Shri Susheel Pratap Singh, Tehsildar, Lakhimpur Kheri opposed the prayer of applicants/petitioners and submitted on the basis of instructions placed by Shri Sushil Pratap Singh, Tehsildar, Lakhimpur Kheri that the sale deed was executed by the farmers (applicants/petitioners) after negotiation. They further submitted on the basis of aforesaid instructions that learned counsel for the applicants/petitioners also alleged that in the year of 2012, boundary was constructed by the officials of the SSB forcibly but at the time of initial notification under Section 4 and 6 of the Act, 1894, they were not the recorded tenure holders and the sale deed was obtained from the recorded tenure holders in the year of 2013 onward and the khatauni as well as the details of the purchase are not mentioned in the petition.

12. Shri S.B. Pandey, Deputy Solicitor General submitted that the private respondent, being the representative of the State, signed the sale deed as a purchaser and all the sale consideration was given from the State Exchequers to the recorded tenure holders. He further submitted that no criminal offence is made out after going through the entire complaint as well as pleading of the present case. He also submitted that the applicants/petitioners had already preferred different writ petitions those are pending before the Writ Court for enhancement of the sale consideration/compensation, therefore, trial court has rightly rejected the applications of the applicants/petitioners moved under Section 156(3) Cr.P.C.

13. Considering the submissions of learned counsel for the parties, going through the contents of applications, law laid down by the Hon'ble Apex Court in the case of *Kunti and Anr. Vs. State of U.P. and Anr.* in *Criminal Appeal No.1380 of 2023* as well as other relevant documents, as it is undisputed fact that the private respondent was posted on the post of Commandant, SSB, Government of India and all the sale consideration was paid from the Government

Exchequer to the recorded tenure holder, and in case, there was any violation of the agreement or statutory provisions then legal remedy in the civil side is available.

14. It is also undisputed fact that the applicants/petitioners had already filed writ petitions before the Writ Court for enhancement of the sale consideration/compensation in lieu of the sale deeds executed by the farmers (applicants/petitioners) for plots in question and the same are as under:

- a.** Writ C No.30811 of 2019 (Pooja Aggarwal and Ors. Vs. State of U.P. Through Director Land Acquisition Revenue and Ors.)
- b.** Writ C No.30880 of 2019 (Vimala Aggarwal and Ors. Vs. State of U.P. Through Director Land Acquisition Revenue and Ors.)
- c.** Writ C No.30894 of 2019 (Dinesh Aggarwal and Ors. Vs. State of U.P. Through Director Land Acquisition Revenue and Ors.)
- d.** Writ C No.30897 of 2019 (Ajay Pal Singh and Ors. Vs. State of U.P. Through Director Land Acquisition Revenue and Ors.)
- e.** Writ C No.30902 of 2019 (Vimala Aggarwal and Ors. Vs. State of U.P. Through Director Land Acquisition Revenue and Ors.)
- f.** Writ C No.30906 of 2019 (Anand Vr.at Nigam and Ors. Vs. State of U.P. Through Director Land Acquisition Revenue and Ors.)

15. As the aforementioned writ petitions, related to claim of petitioners, are pending since 2019, in such circumstances, this Court is of the view that no criminal ingredient are found after going through the entire complaint as well as the pleadings and there is also no criminal intent of the private respondent who was the Government Official and who acted on behalf of the Government of India, therefore, all the applications are misconceived and liable to be dismissed.

16. Accordingly, the applications are hereby **dismissed**.

Order Date :- 22nd December, 2023.

V. Sinha