

Neutral Citation No. - 2024:AHC-LKO:2474

Court No. - 8

Case :- WRIT - C No. - 11718 of 2023

Petitioner :- Antilia Organics Pvt. Ltd., Lko. Thru. Its Director Sri Udai Singh And Another

Respondent :- State Of U.P. Thru. Addl. Chief/ Prin. Secy., Deptt. Of Revenue, Lko. And Others

Counsel for Petitioner :- Rishabh Kapoor

Counsel for Respondent :- C.S.C., Ratnesh Chandra

Alongwith

Case :- WRIT - C No. - 10419 of 2023

Petitioner :- Dr. Kashmir Singh And Another

Respondent :- State Of U.P. Thru. Addl. Chief/ Prin. Secy., Deptt. Of Revenue, Lucknow And Others

Counsel for Petitioner :- Anand Mani Tripathi, Aseem Goswami, Azhar Ikram, Manish Singh

Counsel for Respondent :- C.S.C., Ratnesh Chandra

Hon'ble Jaspreet Singh, J.

1. Both the instant petitions relate to Khasra Plot No.315-M located in village Ardaunamau, Tehsil Sarojni Nagar, District Lucknow. Writ-C No.11718 of 2023 has been filed by Antilia Organics Pvt. Ltd. alongwith Syed Hasan Ali as petitioner wherein they have assailed the impugned order dated 23.22.2023 passed by the Additional District Magistrate, Finance and Revenue, Lucknow. In the said petition Miss Anita Singh wife of Dr. Kashmir Singh and Dr. Kashmir Singh, himself, has been impleaded as private respondents no.7 and 8 respectively.

2. Dr. Kashmir Singh and Miss Anita Singh have also filed Writ-C No.10419 of 2023 which also relates to Khasra Plot No.315-M, Ardaunamau and they too challenged the order dated 23.11.2023

passed by the Additional District Magistrate, Finance and Revenue Lucknow. In the said petition Syed Hasan Ali has been impleaded as respondent no.7. Since the petitioners of both the petitions assail the common order dated 23.11.2023 passed by Additional District Magistrate, Finance and Revenue, Lucknow relating to Khasra Plot No.315-M, Ardaunamau, hence both the petitions were clubbed together on 03.01.2024. This Court on 03.01.2024 had passed the following order which reads as under:-

- "1. Heard Shri Rishabh Kapoor, learned counsel for the petitioners.*
- 2. Notice on behalf of respondents no.1, 2, 5 and 6 has been accepted by the office of the Chief Standing Counsel. Shri Ratnesh Chandra, Advocate has accepted notice on behalf of respondents no.3 and 4. Shri Sudeep Seth, Senior Advocate assisted by Shri Asim Goswami, learned counsel, who has accepted notice on behalf of private respondents no.7 and 8.*
- 3. At the outset, it was pointed out by the counsel for the petitioner that against the impugned order, the private respondents no.7 and 8 had also filed a Writ Petition bearing No.Writ - C No.10419 of 2023, wherein the same order is under challenge and is listed before the Court at Serial No.308. It is in this view of the matter that both the petitions have been taken up together.*
- 4. Shri Rishabh Kapoor, the counsel for the petitioners in Writ - C No.11718 of 2023 has assailed the order impugned which has been passed compositely under Sections 30 and 32/38 respectively of U.P. Revenue Code, 2006.*
- 5. The primary submissions of the learned counsel for the petitioners is that in the instant case, no notice was either issued or served on the petitioner no.1 and in the aforesaid circumstances the entire proceedings have been set ex-parte. Apart from the fact that the entire proceedings culminated finally on a single date and it is nothing but blatant violation of principle of nature justice.*
- 6. On the other hand, the learned Standing Counsel and Shri Ratnesh Chandra, the counsel for the L.D.A. have raised an objection regarding the availability of adequate and statutory remedy of appeal / revision and in this view of the matter, it is submitted that the petition may not be entertained.*
- 7. However, in Writ - C No.10419 of 2023, Shri Sudeep Seth, learned Senior Counsel along with Shri Asim Goswami, Advocate has also challenged the said order and have taken a common ground which has been raised by Shri Rishabh Kapoor regarding violation of principle of nature justice inasmuch as the proceedings have been concluded without affording adequate opportunity of hearing so much so that on a single day, the evidence was recorded and the matter was reserved.*
- 8. Since long standing entries relating to the rights of the parties is*

concerned, it is urged that the same could not have been decided in summary proceedings and that too without affording an opportunity to put up the defence and as such the petitioners have been deprived of an opportunity.

9. It is also submitted that since the land in question along with contiguous land has been acquired by the State for benefit of the L.D.A. and now the Lucknow Development Authority is attempting to change the nature of land in question.

10. Be that as it may, a specific query was put to the counsel for the State to indicate to the Court as to whether the petitioner no.1 of Writ - C No.11718 of 2023 was served with any notice or whether notices were issued but not served as well as the aforesaid fact relating to the petitioners of Writ - C No.10419 of 2023 and whether any adequate opportunity was granted inasmuch as to enable the petitioners to file their evidence/their defence to the show cause notice which was issued dated 08.11.2023 and the status of proceedings 07.09.2017.

11. Learned Standing Counsel submits that he requires some time to seek instructions in the matter.

12. In view thereof, list this matter on 05.01.2024 as fresh along with Writ - C No.10419 of 2023.

13. The State is directed to produce the record relating to the proceedings under Sections 30 and 32/38 which has culminated in the impugned order. It is also provided that the State as well as the L.D.A. shall not take any coercive action or change the nature of the property in question i.e. Plot No.315 till the next date of listing. "

3. It is in the aforesaid backdrop that Shir Upendra Singh, learned Standing Counsel appearing for the State has produced the record of the proceedings which have been decided by the impugned order dated 23.11.2023.

4. This Court shall consider the facts from Writ-C No.11718 of 2023 and whenever required the facts of the other connected petitioner shall also be noticed.

5. Shri Rishab Kapoor, learned counsel appearing for the petitioners has submitted that the disputed property in question was part of Mohall of Nawab Roshan Jahan Begum. Smt. Roshan Jahan Begum vide a registered agreement dated 22.04.1952 leased 23 bighas 8 biswa and 5 biswansi of land to her daughter-in-law, namely, Khursheed Jahan Begum. The area under the cultivation of Khursheed

Jahan Begum was enhanced from 2 bighas 12 biswa and 5 biswansi to 23 bighas 8 biswa and 5 biswansi with an enhancement in the land revenue from Rs.25/- to Rs.70/- and the said entries continued in the revenue record. Upon the death of Khursheed Jahan Begum, the land of Khasra Plot No.315-M devolved on her three sons, namely, Hasan Ali, Kasim Ali and Syed Sadiq Hasan and their names were also duly recorded as bhumidhar with transferable rights.

6. The State Government issued a notification under Section 4 of the Land Acquisition Act of 1894 wherein various plots in different villages were proposed to be acquired including the plot in question located in village Ardaunamau. The said notification of Section 4 of the Land Acquisition Act dated 05.09.2000 also included Plot No.315-M. This was followed by notification under Section 6 of the Land Acquisition Act read with Section 17 of the Act of 1894 dated 16.02.2001. As per the notification, State acquired only 2 bighas 12 biswa and 5 biswansi while the remaining area continued to vest with the three sons of Khursheed Jahan Begum. It is in the aforesaid backdrop that Kasim Ali sold his 1/3rd share in Khasra Plot No.315-M to Miss Anita Singh vide registered sale deed dated 30.05.2007. Similarly Syed Sabit Hasan sold his 1/3rd share in the said plot to Inder Singh (now deceased) by means of a registered sale deed dated 11.12.2007. Upon the death of Inder Singh his share devolved on his younger brother i.e. Dr. Kashmir Singh and their names were also duly mutated in the revenue record. In so far as Hasan Ali Khan is

concerned, he had moved an application under Section 30 of the U.P. Revenue Code 2006 before the Collector Lucknow which was registered as Case No.493/2015-16 with a prayer to correct the error in the revenue map relating to Khasra Plot No.315-M on 16.07.2016, the case was registered and transferred to the Additional District Magistrate, Finance and Revenue for disposal. The said case remained pending with the concerned Authority. However, at a later stage an alleged ex parte inquiry is said to have been made on 31.08.2017 and the State taking note of the aforesaid, *suo moto*, initiated proceedings under Section 32/38 of the U.P. Revenue Code 2006.

7. It is also relevant to notice that Syed Hasan Ali sold his share in favour of M/s. Antilia Organics Pvt. Ltd. by means of registered sale. As far as Dr. Kashmir Singh and Miss Anita Singh is concerned, they had approached the Division Bench of this Court by means of Writ-C No.9137 of 2023 which came to be decided and disposed of by means of order dated 17.10.2023. Neutral Citation No.-2023:AHC-LKO:67953-DB, and the relevant portion of the said order reads as under:-

".....3. Learned counsel for petitioner submits that opposite parties have acquired the land measuring 2-12-5 of the land situated in khasra No.315-M. The compensation for the said acquisition has been paid and there is no dispute to that portion of the land. However now the respondent No.3 and 4 are interfering with peaceful possession and occupation of the petitioners in the remaining part of the land at khasra No. 315-M. One Hasan Ali has preferred an application under Section 30 of U.P. Revenue Code, 2006 which is registered as Case No.493/2015-16. As per paragraph-17 of writ petition, both the petitioners, being co-tenure holders had sought their impleadment and they have been impleaded vide order dated 09.03.2021 (annexure no.7 to the writ petition). The next date in the case is 17.10.2023, i.e., today. The said application was filed in the

year 2016 however no effective proceedings have been held. Mr. Shobhit Mohan Shukla, learned counsel for opposite party No.3 submits that in fact the proceedings under Section 32/38 of U.P. Revenue Code has also been initiated and registered as Case No.74/T2017/10 (4639057007) and the case is fixed for 25.10.2023. It is submitted that the opposite parties are not raising any constructions on the land measuring 2bigha, 12 biswa and 5 biswansi in khasra No. 315-M.

4. We have considered the submissions.

5. In the circumstances of the case, it would be appropriate that both the cases are decided with expedition. So as to put the controversy at rest, the competent court is, therefore, directed to club the two cases and decide the same within a period of two months today from today. All the parties, including those who are not before this Court are directed to co-operate in disposal of the cases. The competent court shall notify this order to the parties before it forthwith.

6. Till the disposal of the proceedings under section 30 as well as 32/38 of U.P. Revenue Code, or for a period of two months whichever is earlier, the opposite parties shall not raise any constructions in the land khasra No. 315-M.

7. With the aforesaid, the writ petition is disposed of.

8. From the perusal of the aforesaid order passed by the Division Bench, it would indicate that the Court was made aware of the fact that two sets of proceedings relating to Khasra Plot No.315-M Ardaunamau was engaging the attention of the Revenue Authorities. Noticing the fact that since the State had acquired some part of Plot No.315-M for the beneficiary, namely, Lucknow Development Authority who had obtained possession as stated by them and while carrying out development work in garb, they were disturbing the possession of the petitioners of the two petitions before this Court. It is in light of the fact that a Division Bench by its order dated 17.10.2023 directed the Revenue Authorities to club the two cases and decide the same within a period of two months after noticing all the parties including those who were not before the Court and till then the respondents were restrained from raising any construction in the land

comprising Khasra Plot No.315-M.

9. It is in the aforesaid backdrop that the Additional District Magistrate, Finance and Revenue, Lucknow is said to have offered an opportunity of hearing and thereafter passed the impugned order dated 23.11.2023 whereby not only the application filed by Syed Hasan Ali under Section 30 of the U.P. Revenue Code 2006 was rejected but it also passed an order on the proceedings initiated under Section 32/38 of the U.P. Revenue Code 2006 as a result the entries recorded in the revenue record was expunged and the same was directed to be recorded in the name of Lucknow Development Authority.

10. Shri Rishabh Kapoor, learned counsel appearing in Writ-C No.11718 of 2023 has primarily submitted that the impugned order is *ex parte* without information and is also in the teeth of the order passed by the Division Bench of this Court dated 17.10.2023 as neither Syed Hasan Ali was informed about the proceedings including preponing the date and since Antilia Organics Pvt. Ltd who are the vendees of Syed Hasan Ali, they were also not made aware of the proceedings. Thus, in so far as the petitioners of the Writ-C No.11718 of 2023 is concerned, the entire proceedings are behind their back, *ex parte* and as valuable rights are involved accordingly the order is patently erroneous and deserves to be set aside on this count alone.

11. Shri Rishabh Kapoor, learned counsel apart from the aforesaid submissions has adopted the submissions made by Shri Sudeep Seth, learned Senior Counsel assisted by Shri Asim Goswami in Writ-C

No.10419 of 2023.

12. Shri Seth while assailing the impugned order has primarily faced the ground that the impugned order dated 23.11.2023 passed by Additional District Magistrate, Finance and Revenue, Lucknow is in blatant violation of principles of natural justice and is an outcome of pre meditated haste.

13. In order to buttress his submission, it is submitted that a show cause notice was issued regarding the proceedings dated 08.11.2023. Though the parties were required to appear before the Additional District Magistrate, Finance and Revenue on 17.11.2023 and on the said date while the petitioners of Writ-C No.10419 of 2023 were represented by their counsel and on the said date the evidence of the three revenue official was recorded. The petitioners through counsel made an application before the Additional District Magistrate, Finance and Revenue, Lucknow seeking certain documents. However, the same was not accepted by the Additional District Magistrate concered rather they were coerced into cross examining the revenue official and on the very same day the judgment was reserved and with promptitude not usually known, the impugned order was passed on 23.11.2023. It is thus submitted that valuable rights of the petitioners has been materially affected and by a single stroke of pen the long standing entries which continued since 1359 fasli year were expunged and the land has been directed to be recorded in the name of the Lucknow Development Authority.

14. It is urged that while two proceedings one under Section 30 of the Revenue Code and the other under Section 32/38 of the Revenue Code 2006 were decided by the common order, it also impairs the rights of the petitioners; inasmuch as two different remedies are available. An order passed under section 30 of the U.P. Revenue Code is appealable while an order passed under Section 32/38 of the U.P. Revenue Code is revisable and since the impugned order is composite, hence the petitioners have preferred the instant writ petition assailing the order.

15. It is thus urged that the Additional District Magistrate, Finance and Revenue acting with due haste has passed the impugned order dated 23.11.2023 without following the settled legal procedure and the norms which are usually adhered while deciding judicial/quasi judicial proceedings, accordingly, the order is patently erroneous and for the said reason even the bar of alternate statutory remedy may not come in the way of the petitioners, hence it is urged that the petitions be entertained and appropriate interim order be passed to protect the rights of the petitioners as the Lucknow Development Authority is attempting to change the nature of the land by raising construction which would materially affect the substantial legal rights of the petitioners.

16. Per contra, Shri Upendra Singh, learned Standing Counsel and Shri Ratnesh Chandra, learned counsel for the Lucknow Development Authority have vehemently urged that the petitioners have an adequate

statutory remedy of filing an appeal as well as revision as the case may be.

17. It is also urged by the learned Standing Counsel and Shri Ratnesh Chandra that the issue of notice raised by the learned counsel for the petitioners also does not hold water for the reason that since name of Antilia Organics Pvt. Ltd. were not recorded in the revenue record hence there was no occasion to send the notice to them.

18. As far as Syed Hasan Ali is concerned, since he himself had made an application under Section 30 of the U.P. Revenue Code 2006, he was already aware and thus it cannot be said that for want of notice he has suffered any prejudice. It is also stated that since Dr. Kashmir Singh and his wife Miss Anita Singh were already represented by the counsel who participated in the proceedings, hence they also cannot cry foul for want of adequate opportunity of hearing.

19. It is urged that it is wrong to allege that the Additional District Magistrate, Finance and Revenue has passed a composite order rather it is submitted that from the perusal of the impugned order, it would indicate that the scope of proceedings under Section 30 has been treated and decided separately so also the proceedings under Section 32/38 have been treated separately and decided. Though the order impugned is passed by the same authority which relates to the same plot i.e. 315-M Ardaunamau and the cases were clubbed together as directed by the Division Bench of this Court, hence the order is absolutely justified and since the petitioners have been unable to

establish their locus or their rights, accordingly the State being the custodian of all the records once becomes aware of any discrepancy, it is their duty to correct the records and in the aforesaid circumstances, if the petitioners are aggrieved, they may take recourse to the statutory remedy available under the U.P. Revenue Code 2006 and the petition deserves to be dismissed.

20. This Court had heard the learned counsel for the parties on 03.01.2024 and *prima facie* noticing their respective contentions including the fact whether the proceedings culminated in a day and whether the parties were put to adequate notice and in order to examine the same had even called for the record which has been placed before the Court today in terms of the order dated 03.01.2024 which has been quoted hereinabove.

21. Upon perusing the record placed before this Court, this Court finds that a notice dated 08.11.2023 has been issued from the office of the Additional District Magistrate, Finance and Revenue, Lucknow which is addressed to Syed Hasan Ali, Miss Anita Singh, Dr. Kashmir Singh and the Secretary Lucknow Development Authority.

22. However, there is no service report indicating that the said notice requiring the parties to appear before the Additional District Magistrate, Finance and Revenue, Lucknow on 17.11.2023 was served on Syed Hasan Ali. It will also be relevant to notice that the Division Bench of this Court in its order dated 17.10.2023 had specifically noticed the two cases i.e. one filed by Syed Hasan Ali and

the other initiated by the State under Section 32/38 of the U.P. Revenue Code and provided that both the cases were to be clubbed together and all the parties including those not before this Court were required to be noticed with a direction that they would co-operate and the Court was required to notify the order of the Division Bench to the parties before it forthwith.

23. Considering the fact that the order dated 17.10.2023 was passed after hearing the counsel for the State as well as the Lucknow Development Authority it was only but natural that the court concerned ought to have put the parties to notice but as the record reflects that the notice was issue only on 08.11.2023 i.e. after 21 days approx from the date of the order passed by the Division Bench and only 9 days time was granted to the petitioners to respond.

24. As far as the Writ-C No.11718 of 2023 is concerned, this Court is in agreement with the submission made by the learned counsel for the State that since Antilia Organics Pvt. Ltd. were not recorded in the revenue record and though they had moved an application informing the order passed by the Division Bench but thereafter they did not take any concrete steps to seek their impleadment. Hence even if the notice is not served on them, they themselves are to blame. However what is important to note is the case filed by Syed Hasan Ali under Section 30 of the U.P. Revenue Code 2006 which was to be clubbed with the proceedings initiated by the State under Sections 32/38 of the U.P. Revenue Code 2006. He ought to have been noticed but nevertheless

there is no material on record nor the Standing Counsel could place the same before the Court with the assistance of the official of the Collectrate who were present before the Court alongwith the record to indicate as to when and how the notice dated 08.11.2023 was served on Syed Hasan Ali. Thus, to this effect there is no dispute between the parties that Syed Hasan Ali was not notified nor he was aware of the date fixed i.e. 17.11.2023. To this extent, submission made by Shri Rishabh Kapoor has substance.

25. Another fact that reflects from the record is that earlier the case was pending before Sub Divisional Officer (Judicial) and only on 08.11.2023 it was transferred to the Court of Additional District Magistrate, (Finance and Revenue), Lucknow. Thus issuance of notice from the Court of Additional District Magistrate (Finance and Revenue), Lucknow and its service upon the respective parties gives significance.

26. Another fact which is reflected from the record is that on 17.11.2023, three Lekhpals were examined before the Additional District Magistrate, Finance and Revenue, Lucknow and counsel for Dr. Kashmir Singh and Miss Anita Singh was present and he crossed examine the said Lekhpal. There is a clear averments made in the Writ-C No.10419 of 2023 specifically in paragraph 32 to 37 which for the sake of brevity is not being reproduced, however, suffice is to say that there appears to have been tearing hurry to conclude the proceedings; inasmuch as no opportunity apparently was given to the

petitioners to either furnish their evidence or make proper submissions, since, the evidence of the Lekhpals were recorded on the same day and the counsel for the petitioners were required to cross examine on the same day and also very same day, the judgment was reserved and the impugned order came to be passed on 23.11.2023.

27. On this count also, there is no explanation which could be given by the counsel for the State as to the fact that proceedings under Section 30 were initiated by Syed Hasan Ali in the year 2016 and it had been pending for almost seven years but then suddenly, the State woke up from their slumber to decide the cases without even noticing whether the parties concerned were duly served, informed and were granted adequate time to lead their evidence and make their submission. It is only once the Division Bench of this Court directed the Authority to decide the same within a period of two months that the State machinery swung into action and then without even waiting to ensure that the parties concerned have been appropriately noticed and without complying with the procedural requirements of law including the principles of natural justice and on one fine day on 17.11.2023 proceedings were concluded in one day and the cases were reserved and the order was pronounced on 23.11.2023.

28. From the perusal of the record, there is no subjective satisfaction recorded by the Additional District Magistrate, Finance and Revenue, Lucknow regarding the service of the notice. Even though the three Lekhpals were examined on one day yet time ought

to have been granted to the petitioners to lead whatever evidence they wished in support of their defence rather nothing was allowed and the matter came to be decided apparently in haste and the same is also reflected from the record placed before the Court.

29. In light of the aforesaid, this Court had put specific query to the learned Standing Counsel as well as counsel for the Lucknow Development Authority as to how such position can be justified and even though the learned counsel for the State and the Lucknow Development Authority, Lucknow have made submissions but could not dispute the fact that apparently Syed Hasan Ali was not noticed and as far as Dr. Kashmir Singh and Miss Anita Singh are concerned, they were also not granted adequate opportunity to put forward their case and defend.

30. This Court being satisfied regarding their tearing hurry with which the proceedings have been decided that too without notice to Syed Hasan Ali hence in the aforesaid circumstances, this Court does not deem appropriate that any gainful purpose would be served in calling for a counter-affidavit from the State or the Lucknow Development Authority as the fact that notice as required by the Division Bench was not served or notified to Syed Hasan Ali and moreover adequate opportunity to defend was not granted to Dr. Kashmir Singh and Miss. Anita Singh through their counsel, hence the impugned orders are liable to be set aside.

31. At this stage, the Court is reminded of certain decisions of the

Apex Court which are noticed hereinafter:-

*"The Apex Court in the case of **Canara Bank Vs. Debasis Das** reported in 2003 (4) SCC 557 has held in para 19 as under:-*

"19... Even an administrative order which involves civil consequences must be consistent with the rules of natural justice." This Court has elaborated the expression "civil consequence" by observing that (Debasis Das case, SCC pg.572, para 19) "encompasses infraction of not merely property or personal rights but of civil liberties, material deprivations and non-pecuniary damages".

This Court has further stated, that, "in its wide umbrella comes everything that affects a citizen in his civil life." and in Para 15 held as under:-

"15. The adherence to principles of natural justice as recognized by all civilised States is of supreme importance when a quasi-judicial body embarks on determining disputes between the parties, or any administrative order, which involves civil consequence must be consistent with the rules of natural justice."

*The Supreme Court in the case of **Prakash Ratan Sinha Vs. State of Bihar and others** reported in 2009 (14) SCC 690 in paras 13 and 14 has held as under:-*

"13. The law in this regard has been settled by several decisions of this Court. The principle that emerge from the decisions of this Court is that, if there is a power to decide and decide detrimentally to the prejudice of a person, duty to act judicially is implicit in exercise of such a power and that the rule of natural justice operates in areas not covered by any law validly made.

14. Corollary principles emanating from these cases are as to what particular rule of natural justice should apply to a given case must depend to an extent on the facts and circumstances of that case and that it is only where there is nothing in the statute to actually prohibit, the giving of an opportunity of being heard and on the other hand, the nature of the statutory duty imposed on the decision maker itself implies an obligation to hear before deciding. These cases have also observed, whenever an action of public body results in civil consequences for the person against whom the action is directed, the duty to act fairly can be presumed and in such a case, the administrative authority must give a proper opportunity of hearing to the affected person."

*The Supreme Court in **Nisha Devi Vs. State of Himachal Pradesh and others** reported in 2014 (16) SCC 392 in para 5 held as under:-*

"5. Trite though it is, we may yet again reiterate that the principle of audi alteram partem admits of no exception, and demands to be adhered to in all circumstances. In other words, before arriving at any decision which has serious implications and

consequences to any person, such person must be heard in his defence. We find that the High Court did not notice the violation and infraction of this salutary principle of law. Accordingly, on this short ground, the impugned Judgments and Orders require to be set aside, and are so done. The matter is remanded back to the Divisional Commissioner for taking a fresh decision after giving due notice to the Appellant and affording her an opportunity of being heard. The Divisional Magistrate, Kullu, shall complete the proceedings expeditiously, and not later than six months from the date on which a copy of this Order is served on him."

32. In light of the aforesaid dictum and the material as reflected from the record made available, this Court is satisfied that the impugned orders have been passed without affording adequate opportunity to contest the petitioners and without noticing them and it is for the aforesaid reason alone the impugned order is set aside. It is made clear at this very stage that the submissions made by the parties on merits have not been deliberated by this Court as the order impugned is bad *per se* for want of compliance of principles of natural justice. For the same very reason, this Court turns down the plea of the learned counsel for the State and the Lucknow Development Authority regarding the availability of statutory remedy which nevertheless is not an absolute bar for this Court to exercise its jurisdiction under Article 226 of the Constitution of India.

33. In light of the aforesaid discussions, this Court set aside the order dated 23.11.2023 passed in Case No.T-20171046399057007 and Case No.D-20161046005377. The parties are directed to appear before the Additional District Magistrate, Finance and Revenue, Lucknow on 16.01.2024 and they shall be at liberty of filing all the documents or pleading and evidence that they wish to present in

support of the respective case by 24.01.2024 after serving a copy on the counsel for the Lucknow Development Authority and the learned Standing Counsel representing the State before the Additional District Magistrate, (Finance and Revenue), Lucknow. After the exchange of the aforesaid pleading/document and evidence the Additional District Magistrate, Finance and Revenue, Lucknow shall decide the matter afresh by a reasoned and a speaking order taking into account the pleadings, documents and evidence which may be submitted by the parties after affording an opportunity of hearing to the parties but without granting any unnecessary adjournments within a period of four weeks from the date parties appear before the Court concerned. In case if the petitioners herein do not co-operate, then the Court concerned will be well within its rights to proceed in accordance with law.

34. Subject to the aforesaid, both Writ-C No.11718 of 2023 and Writ-C No.10419 of 2023 are allowed. The impugned order dated 23.11.2023 is set aside. In the facts and circumstances, there shall be no order as to costs. The original record placed before the Court has been handed over to Shri Upendra Singh, learned Standing Counsel.

Order Date :- January 5, 2024
ank/-