Court No. - 29

Case :- WRIT - C No. - 23928 of 2025

Petitioner :- Harkesh Sharma And Another
Respondent :- State of U.P. and Another
Counsel for Petitioner :- Ramesh Kumar Pandey
Counsel for Respondent :- Anjali Upadhya,C.S.C.

Hon'ble Mahesh Chandra Tripathi,J.
Hon'ble Vinod Diwakar,J.

1. Heard learned counsel for the petitioners, Shri Devesh Vikram, learned Additional Chief Standing Counsel for State-respondent, and Ms. Eshita Sand, learned counsel holding brief of Mrs. Anjali Upadhya, learned counsel appearing for respondent no. 2.

2. The present writ petition has been filed seeking a direction in the nature of mandamus to the respondent authorities to allot a 10% residential plot in the development area, in terms of the Full Bench decision of this Court in Gajraj v. State of U.P. and Others, 2011 (11) ADJ-I.

3. In support of the relief claimed, learned counsel for the petitioners has placed reliance upon a Division Bench judgment of this Court in Balraj Singh and 21 Others v. State of U.P. and 3 Others (Writ-C No. 9496 of 2025, dated 2.4.2025), wherein the Court directed the respondent-Development Authority to consider the claim of the petitioners and pass a reasoned and speaking order with reference to the averments made in paragraph 14 of the writ petition, within a period of eight weeks. Learned counsel submits that the facts of the present case are squarely covered by the said judgment, and accordingly prays that the present writ petition may also be disposed of in similar terms.

4. Per contra, Mrs. Anjali Upadhya, learned counsel for respondent

no. 2, has opposed the prayer and submits that the petitioners are mere fence-sitters who did not challenge the acquisition proceedings nor were they parties to the Full Bench decision in Gajraj (supra). She contends that the petitioners, at this belated stage, are attempting to claim benefits under the directions issued in Gajraj (supra) regarding allotment of developed abadi land to the extent of 10% of their acquired land, subject to a maximum of 2500 square meters. She further submits that a similar issue has been considered and rejected by this Court in Sarjeet Singh v. State of U.P. and 3 Others (Writ-C No. 16144 of 2023, decided on 2.8.2023), which referred to the earlier decision of this Court dated 31.05.2022 in Runwell India Pvt. Ltd. v. State of U.P. and Others (Writ-C No. 14113 of 2017).

5. Having heard the rival submissions and upon perusal of the record, this Court finds that the claim made by the petitioners cannot be granted in light of the detailed reasoning contained in paragraphs 35 to 39 of the decision in Runwell India Pvt. Ltd. (supra), which is reproduced below for reference:

"35. The grounds urged on behalf of petitioners for claiming 10% developed land subject to ceiling limit of 2,500 square meters, though appears to be attractive at the first flush, but are devoid of substance. The submission is that subsequent to the Full Bench judgement of this Court in Gajraj's case (supra), some of the land owners/tenure holders challenged the same before the Supreme Court. All the Civil Appeals/Special Leave Petitions were clubbed together and decided by a common judgement dated 14.02.2015, as Savitri Devi's case (supra), wherein, in paragraph no. 50, it has been held that in view of the peculiar circumstances, the order passed by the High Court would not form precedent for future cases. The observation made in paragraph no. 50 in Savitri Devi's case (supra) reads as under:-

50. Conclusion Keeping in view all these peculiar circumstances, we are of

the opinion that these are not the cases wherethis Court should interfere under Article 136 of the Constitution. However, we make it clear that directions of the High Court are given in the aforesaid unique and peculiar/specific background and, therefore, it would not form precedent for future cases."

(emphasis supplied)

36. Subsequent to the judgement in Savitri Devi's case (supra), the Supreme Court in Khatoon's case (supra), while considering the question as to whether the appellants therein are entitled to claim additional abadi land in lieu of their acquired land in terms of the judgement in Gajraj's case (supra) and upheld in Savitri Devi's case (supra), has held as under:-

"49. That apart, there is no basis for the appellants to press in service the principle underlined in Article 14 in such cases for the simple reason that firstly, Article 14 does not apply to such cases; and secondly, there is no similarity between the case of those landowners, who filed the writ petitions and the present appellants, who did not file the writ petitions. Though the High Court, in Gajraj's case (supra) decided the rights of both categories of landowners but the cases of both stood on a different footing. It is for these reasons, the appellants were not held entitled to take benefit of condition No. 3 (a) and (b) of the case of Gajraj (supra) which was meant for the writ petitioners therein but not for the appellants. However, the appellants were held entitled to take the benefit of only condition No. 4 (a) and (b) of the said judgment and which they did take by accepting the additional compensation payable at the rate of 64.70%.

50. In our view, therefore substantial justice was done to all the landowners including the appellants, as observed in para 49 of Savitri Devi's case (supra).

37. In view of subsequent judgements of this Court as well as the Apex Court as noted herein-above, claim of the land owners/tenure holders for allotment of 10% of Abadi land subject to the ceiling limit of 2,500 square meters has

been negated, the benefit, as claimed by the petitioners, cannot be granted.

38. The land owners/tenure holders, whose lands have been acquired under the 1894 Act, are not entitled as a matter of right for allotment of 10% of developed land, subject to the ceiling limit of 2,500 square meters.

39. In view of the aforesaid, as held by the Apex Court in Savitri Devi's and Khatoon's cases (supra), the landowners/tenure holders cannot get benefit of the same as the judgement rendered by the Full Bench of this Court in Gajraj's case (supra) was in view of the peculiar facts & circumstances of the case, which would not form precedent for the future cases and therefore, the benefit cannot be accorded to the petitioners, who were not before the Court in earlier round of litigation."

6. However, in Balraj Singh (supra), the Division Bench of this Court considered similar objections raised by the Development Authority and, despite them, directed the Authority to pass a speaking order with respect to the claim of the petitioners therein. In the interest of parity and fair opportunity, this Court finds it appropriate to dispose of the present writ petition in similar terms.

7. Accordingly, the present writ petition is disposed of in terms of the judgment rendered in Balraj Singh (supra). The respondent-Development Authority is directed to pass a reasoned and speaking order on the claim of the petitioners, keeping in view the facts of the case and relevant legal precedents, preferably within a period of eight weeks from the date of production of a certified copy of this order.

Order Date :- 24.7.2025
NLY

Digitally signed by :-
NAND LAL YADAV
High Court of Judicature at Allahabad