



2025:AHC:137780-DB

Neutral Citation No. - 2025:AHC:137780-DB

Court No. - 29

Case :- WRIT - C No. - 24772 of 2025

Petitioner :- Tanveer Khan And Another

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Abhishek Kumar Tiwari, Samsad Ahmed Khan

Counsel for Respondent :- Anjali Upadhyaya, 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 the State respondents, and Mrs. Anjali Upadhyaya, learned counsel for Greater Noida Industrial Development Authority-respondent no.2.

2. The instant writ petition has been preferred with a prayer to command the respondents not to dispossess the petitioners from their land, i.e., Khasra No.773M area 0.0167 hectare situated at Village Bisrakh Jalalpur, Pargana and Tehsil Dadri, District Gautam Buddh Nagar.

3. It appears from the record that one Vikky had executed a sale deed on 03.11.2022 and 07.01.2023 in favour of Arvind Kumar. The petitioners had purchased the land measuring 0.0167 hectares on Khasra No.773M situated at Village Bisrakh Jalalpur, Pargana and Tehsil Dadri, District Gautam Buddh Nagar through a sale deed dated 23.05.2023 executed by Arvind Kumar in favour of the petitioners and approached this Court with the aforesaid prayer.

4. The relief is resisted by Mrs. Anjali Upadhyaya, learned counsel for Greater Noida Industrial Development Authority, on the premise that Khasra No.773 situated in Village Bisrakh Jalalpur is an area admeasuring 7.551 hectares, out of which 5.1620 hectares was acquired and the remaining land measuring 2.3150 hectares remains un-acquired, although it forms part of the Development Authority. She submits that at no point of time, actual demarcation has ever been carried out and in the absence thereof, the third party interest has been created in the alleged plot no.773, which is admittedly a minjumla plot. She has also complained before us that the

disputed shop falls under the territorial jurisdiction of the Noida Authority, which is created under Section 3 of the U.P. Industrial Area Development Act, 1976, and without obtaining the due permission, no development is permitted. In support of her submission, she has placed reliance on the order dated 19.03.2024 passed in Writ C No.25869 of 2023 (Vidyawati and another vs. State of U.P. and others).

5. For ready reference, the order dated 19.03.2024 is extracted as under:-

"1. Heard Sri H.N. Singh, learned Senior counsel assisted by Sri Sanjay Kumar Mishra, learned counsel for the petitioners, Sri M.C. Chaturvedi, learned Senior counsel assisted by Ms. Anjali Upadhyia, learned counsel for the development authority and Sri Manoj Kumar Mishra, learned counsel for the State.

2. This writ petition has been filed with the prayer to quash the communication dated 25.7.2023, sent by the Special Chief Executive Officer of the Greater Noida Industrial Development Authority to the Deputy Commissioner of Police, Gautam Budh Nagar. This communication records that Khasra no.773 is partly acquired and otherwise forms part of the industrial development area of the authority. It is alleged that constructions are being raised on the part of this land without any approval obtained from the authority. It is further recorded that the constructions otherwise are on part of acquired land of the authority. Request has been made by this communication to provide adequate police force for stopping the ongoing constructions. This communication is challenged in the writ petition primarily on the ground that petitioners have their old constructions existing on unacquired portion of plot no.773 and that they are not raising any fresh constructions on the spot. It is, therefore, submitted that the communication impugned in the writ ought to be interfered with since old constructions of petitioners are proposed to be demolished without complying with the procedure in law.

3. The writ petition was heard previously by this Court. Facts of the present case were noticed and the writ petition was entertained vide following orders passed on 17.8.2023:-

"Instructions were invited from the respondents by this Court on 3.8.2023 vide following orders:-

"The writ petition has been filed for quashing the order dated 25.07.2023 passed by the Special Chief Executive Officer, Greater Noida Industrial Development Authority, Gautam Buddh Nagar, whereby and whereunder police assistance has been asked for effecting removal of encroachment/demolition of illegal constructions over Plot No.773 situate in Village Bisrak Jalalpur, Pargana Tehsil Dadri, District Gautam Buddh Nagar.

On the request of learned counsel for the petitioners, list this case on 17.08.2023, as fresh.

Till then, no coercive steps shall be taken against the petitioners by the Respondent Nos.2 & 3.

It is made clear that on the next date, none of the parties would seek any adjournment."

Mrs. Anjali Upadhyia appearing for the respondents states that total area of Plot No.773 situate in Village Bisrak Jalalpur, is 7.551 hectare, out of which 5.1620 hectare was acquired and the remaining land measuring 2.3150 hectare remains unacquired, although it forms part of the Development Authority. It is

also submitted that without obtaining any prior permission the petitioners cannot be permitted to raise any construction. It is also stated that the area over which constructions are being raised forms part of the acquired land.

The aforesaid statement is disputed on behalf of petitioners, who contend that neither any compensation has been paid nor any new constructions are being raised and that only the old Abadi exists on the plot.

Matter requires consideration.

Notice on behalf of respondent nos.1 & 5 has been accepted by learned Standing Counsel, whereas Mrs. Anjali Upadhyaya has appeared for the respondent nos.2 to 4. All the respondents may file counter affidavit within four weeks. Rejoinder affidavit, if any, may be filed within two weeks, thereafter.

List thereafter.

Till the next date of listing, parties are directed to maintain status quo on the spot, inasmuch as no further constructions would be raised by the petitioners over their portion of Plot No.773 and the existing constructions would also not be demolished by the respondents.

Details of acquisition etc. shall be disclosed while filing the counter affidavit."

4. Affidavits had been exchanged between the parties and thereafter the petition came up for admission/hearing before this Court on 26.2.2024 and following orders were passed in the matter:-

"1. There is a factual issue raised by the parties as to whether the order passed by this Court on 17.08.2023 has been violated or not. Various google images have been shown, which prima facie shows raising of huge constructions on the plot.

2. Sri H.N. Singh, learned Senior Counsel appearing for the petitioners states that no constructions have been raised after 17.08.2023, when the order came to be passed in this writ. This statement is disputed by Sri M.C. Chaturvedi, learned Senior Counsel assisted by Smt. Anjali Upadhyaya.

3. In the facts of the case, we appoint Sri Kunal Shah, Advocate to visit the spot within 72 hours and submit his report, in a sealed envelop, regarding the possession and nature of constructions on the plot.

4. The respondent Greater Noida Authority as well as the District Magistrate, Gautam Budh Nagar shall render all assistant to learned counsel, who would also be assisted by the revenue officials of the district.

5. Learned counsel would be paid Rs. 50,000/- towards his fees and Rs. 10,000/- towards his traveling expenses, which would be borne equally by the parties.

6. Put up this matter once again as fresh on 04.03.2024."

5. Pursuant to the above orders passed, Sri Kunal Shah has submitted his report in a sealed envelope, which is taken on record. As per this report, plot no.773 is a large plot located in Village Bisrak Jalalpur,

Pargana and Tehsil Dadri, District Gautam Budh Nagar. The Advocate Commissioner has inspected the site on 29.2.2024 at 11.20 AM. The site was inspected in the presence of the officers of Greater Noida as well as Sri Lokendra Singh Bhati, Sri Kandeep Singh, who claim to be the authorized representative of the petitioners. Revenue officials of the State were also present.

6. *As per this report, petitioners are in possession of a contiguous piece of land forming part of Khasra no.773. At this site, there exist an old concrete accommodation consisting of five rooms. There is also a tin shed erected for tying the cattles. There is also an old constructions of 9.46x3.3 meter meant for keeping the fodder for the cattle. In the opinion of the Advocate Commissioner, these constructions are fairly old. Photographs of this construction have also been appended which would clearly reveal that these constructions are fairly old. The Advocate Commissioner has inspected the site and found that petitioners are in possession of area of which detailed description is given in his report. The plot is not in even shape and as per his tentative opinion the possession of the petitioners and other co-sharers are slightly more than the unacquired land of plot no.773. The definite area available with the petitioners and the co-sharers, however, could not be measured and it is the tentative opinion of the Advocate Commissioner that their possession is on land which is slightly more that their entitlement. According to the Advocate Commissioner, he attempted to put pillars so that the area could be measured on which some of the petitioners' representative had their objections. The Advocate Commissioner has further specified that it is behind plot no.773 on the north and the north-western part of plot no.773 that multi storyed constructions are being raised. Construction materials were also found on the spot. Photographs have been annexed which would show multiple floors being constructed on the land which has been found to be part of the acquired portion of plot no.773. The petitioners before this Court, however, have stated that they have no concern with the new constructions which are being raised on the north and the north-western portion of plot no.773.*

7. *Though the petitioners have stated that they are not raising constructions but during the course of argument a somewhat distinct case is sought to be set up by learned Senior counsel for the petitioners. It is stated that though none of the constructions are being raised by the writ petitioners but it is possible that some of the constructions may be getting raised by those who have been transferred land out of the unacquired portion of the petitioners.*

8. *This stand of the petitioners appears to be wholly misleading. This is particularly so as the petitioners and the co-sharers have been prima facie found to be in possession of area larger than the unacquired portion of plot no.773. The remaining land of plot no.773 admittedly forms part of the acquired land of respondent-authority. Prima facie, we find that the ongoing constructions are on the acquired portion of the land of the authority and the petitioners, in the garb of protecting their old constructions, are facilitating raising of fresh constructions upon the acquired land of the authority.*

9. *We are also informed that nobody on spot is claiming to be the owner of the new constructions. A notice would thus be pasted on the site by the revenue officials and a publication would also be made in the newspaper inviting objection from any person, who may have a claim in respect of the new offending constructions prima facie found on the land of the authority.*

10. *In view of the prima facie opinion which we have expressed, we are of the view that a direction immediately needs to be issued to the authority as well as the local police personnel to ensure that all ongoing constructions on plot no.773 shall be stopped forthwith. We direct the Collector, Gautam Budh Nagar to constitute a three member committee which would identify the unacquired portion of plot no.773 by fixing pillars, within a period of four weeks from today.*

11. *The report submitted by the Advocate Commissioner which contains the video clipping as well as audio clipping containing the statements of the representative of the petitioners is being handed over to*

the State counsel for it to be transmitted to the Collector in a sealed envelope. The spot inspection report accompanying the report of the Advocate Commissioner contains the signatures of the representative of the petitioners as also the officials of the Greater Noida as well as revenue officials of the State. This spot inspection report which is duly signed contains the stand of the representative of the petitioners as per which they have no objection to the action of authority against ongoing constructions on north and north-western portion of plot no.773, as according to petitioners they have no concern with such ongoing constructions. This report would constitute prima facie material for actual demarcation to be carried out on the spot. The old constructions which are there since long and are specified in the report of the Advocate Commissioner shall not be demolished. However, after demarcation of the spot the constructions which are found to be raised on the acquired land of the authority would be permitted to be dealt with by the respondents, in accordance with law. Till an appropriate exercise of demarcation is undertaken on plot no.773, the parties shall maintain status-quo. Further action, thereafter would be open to be taken in terms of this order.

12. Sri Kunal Shah, who was instructed to inspect the spot and has submitted his report has also assisted the Court in explaining the spot map and his report. We record our appreciation for the assistance rendered by the Advocate Commissioner, who shall be paid his balance fee by the development authority, within a week from today.

13. A copy of the report shall also be handed over to the counsel for the petitioners and the counsel for the development authority. Copy of this report will also be kept on record by this Court.

14. The writ petition is, accordingly, disposed of, in terms of the above directions."

6. Reliance has also been placed on the order dated 03.11.2014 passed by Division Bench of this Court in Writ - C No.-54217 of 2014 (Roop Ram and another vs. State of U.P. and others), wherein, the Division Bench has opined that it shall be open to the NOIDA authority to ensure that no unauthorized constructions are raised over any plot within its territory. If there are any existing constructions, demolition thereof shall not be made without following the provisions of the U.P. Industrial Area Development Act, 1976, and the rules and regulations applicable. It is also held therein that this order shall not entitle the petitioners to raise any unauthorized construction without getting a map sanctioned by the NOIDA.

7. In this backdrop, learned counsel for the Development Authority states that in the present case, the authority has not sanctioned the plan for construction over the disputed land, and whatever construction is raised, the same is without due permission. At present, it is also admitted position that a third-party interest has been created over the land in question that so without due demarcation and the same is reflected in the order dated 19.03.2024, passed by the Division Bench of this Court. She submits that without the actual demarcation and due permission, the petitioner asked for the injunction by this Court. At this stage, she prays that the Authority be given liberty to carry out the demolition of an illegal construction, which was

raised by the petitioners over the disputed land, without any sanction plan under the U.P. Industrial Area Development Act, 1976.

8. Considering the facts and circumstances, we are not inclined to entertain the instant writ petition, as the Division Bench has already passed the detailed order on 19.03.2024. The petitioner has raised the construction at his own risk. Accordingly, the writ petition is misconceived and the same stands ***dismissed***.

Order Date :- 13.8.2025

A. Pandey