2024:UHC:8094

HIGH COURT OF UTTARAKHAND AT NAINITAL

1. Writ Petition (M/S) No.2675 of 2023

Mohd. Iqbal .....Petitioner

Versus

District Magistrate Haridwar & Ors. .....Respondents

2. Writ Petition (M/S) No.2534 of 2023

Husan Jahan .....Petitioner

Versus

District Magistrate Haridwar & Ors. .....Respondents

3. Writ Petition (M/S) No.2589 of 2023

Menka .....Petitioner

Versus

District Magistrate Haridwar & Ors. .....Respondents

4. Writ Petition (M/S) No.2662 of 2023

Geeta Rani .....Petitioner

Versus

District Magistrate Haridwar & Ors. .....Respondents

5. Writ Petition (M/S) No. 2709 of 2023

Gaurav Goel .....Petitioner

Versus

District Magistrate Haridwar & Ors. .....Respondents

6. Writ Petition (M/S) No.2710 of 2023

Jahangeer .....Petitioner

Versus

District Magistrate Haridwar & Ors. .....Respondents

7. Writ Petition (M/S) No.2711 of 2023

Prabha Goyal .....Petitioner

Versus

District Magistrate Haridwar & Ors. .....Respondents

8. Writ Petition (M/S) No.2712 of 2023

Mohd. Meharban .....Petitioner

Versus

District Magistrate Haridwar & Ors. .....Respondents

9. Writ Petition (M/S) No.2713 of 2023

Samrat Sharma .....Petitioner

Versus

District Magistrate Haridwar & Ors. .....Respondents

10. Writ Petition (M/S) No.2715 of 2023

Neetu Dua .....Petitioner

Versus

District Magistrate Haridwar & Ors. .....Respondents

11. Writ Petition (M/S) No.2716 of 2023

Saroj Devi .....Petitioner

Versus

District Magistrate Haridwar & Ors. .....Respondents

12. Writ Petition (M/S) No.2733 of 2023

Shalni Goel .....Petitioner

Versus

District Magistrate Haridwar & Ors. .....Respondents

13. Writ Petition (M/S) No.3093 of 2023

Bala Devi .....Petitioner

Versus

District Magistrate Haridwar & Ors. .....Respondents

14. Writ Petition (M/S) No.3094 of 2023

Rajdulari .....Petitioner

Versus

District Magistrate Haridwar & Ors. .....Respondents

15. Writ Petition (M/S) No.2719 of 2023

Rukaiyya Khan .....Petitioner

Versus

District Magistrate Haridwar & Ors. .....Respondents

Presence:-

Mr. Parikshit Saini, learned counsel for petitioners.
Mr. Devendra Singh Bora, learned Standing Counsel for the State of Uttarakhand/respondent Nos.1 to 3.
Mr. Naresh Pant, learned counsel for respondent No.4-NHAI.

Hon'ble Pankaj Purohit, J. (Oral)

Heard learned counsel for the parties.

2. Delay in filing the counter affidavits is condoned. Delay condonation applications (IA Nos.2 of 2024) made therefor in all writ petitions, are allowed. Counter affidavits are taken on record.

3. By means of these writ petitions, petitioners have challenged the order/report dated 02.11.2022 and consequence notices dated 10.08.2023 passed by respondent No.2, whereby, the award dated 21.05.2022 passed by respondent Nos.2 & 3 has been changed.

4. Since all these writ petitions entail common questions of fact and law, hence, these are being taken up together and decided by this common order. However, the facts of WPSS No.2675 of 2023 are only taken up for consideration.

5. The facts of the case shorn-off unnecessary details are that the land of the petitioner in Village Saliyar Salhapur Mustahakam, Tehsil Roorkee, District Haridwar, was acquired by the respondent No.4, for the purpose of construction of Delhi-Dehradun-Haridwar Greenfield Highway. The proceedings for calculation of compensation was initiated before the respondent No.2 under the provisions of Section 3(G)(1) & (2) of the National Highway Act, 1956. Thereafter, respondent No.2 has passed its award on 21.05.2022 and determined the compensation @Rs.7,757/- per sq. meter. The award dated 21.05.2022 passed by the respondent No.2 was challenged before the Arbitrator by the petitioner as well as respondent No.4 under Section 3(G)(5) of the National Highway Act, 1956. Undisputedly, the said arbitration

cases are still pending consideration before the Arbitrator. In between, what has happened that the respondent Nos.2 & 3 has passed the impugned order dated 02.11.2022, whereby, the respondent No.2 has changed the rate of acquired land, on which the compensation was calculated, from Rs.7,757/- per Sq. Mtr. to Rs.3,446/- per Sq. Mtr. and impugned notices were issued to the petitioner for recovery of excess amount paid to him.

6. It is feeling aggrieved by the said action on the part of the respondent Nos.2 & 3, the petitioner is before this Court.

7. It is submitted by the learned counsel for the petitioner that once the award has been passed by the respondent Nos.2 & 3 under Section 3(G)(1) & (2) of the National Highway Act, 1956, it becomes *functus officio* and it cannot enter into the award again, therefore, the subsequent reduction of the compensation amount of the land is totally illegal and cannot be sustained.

8. Per contra, learned counsel for respondent No.4 submits that on a complaint that the compensation awarded to the petitioner is excess to the actual value of the land, an inquiry was conducted and in that inquiry, it has been found that the excess amount has been paid to the petitioner-land owner by the respondent No.2. However, no reduction has been done in the inquiry report.

9. It is further submitted by the learned counsel for the respondent No.4 that in order to save him, respondent No.2 has issued recovery notices to the petitioner-land owner.

10. Learned State Counsel has also admitted the submissions made by the respondent No.4 that by the impugned inquiry report, no change has been made in the rates of the land of the petitioner-land owner, therefore, the notices issued for recovery are bad in law.

11. Having heard the learned counsel for the parties, this Court is of the view that the impugned notices dated 10.08.2023 are totally bereft of merit, illegal and cannot be sustained under the law, therefore, the same are being quashed for the reason that once the award has been passed by the respondent Nos.2 & 3, it becomes *functus officio* and it cannot reopen and revisit the order/award dated 21.05.2022 of the case. However, this Court is refraining itself for making any comment on the inquiry report dated 02.11.2022.

12. Accordingly, all the writ petitions are partly allowed.

(**Pankaj Purohit, J**.)
04.11.2024

PN
PREETI NEGI