

(2010) 09 AHC CK 0416
In the Allahabad High Court
Case No : Writ C. No. 59017 of 2010

Dwarika Bhushan

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 27-09-2010

Acts Referred:

Citation : (2010) 09 AHC CK 0416

Hon'ble Judges : Virendra Singh, J;Ashok Bhushan, J

Bench : Division Bench

Final Decision : Disposed Of

Judgement

1. Heard Sri Ravi Kant, Senior Advocate for the petitioner. Learned Standing Counsel appears for Respondents No. 1 and 2. Sri S.S. Jatav, learned Counsel appears for Respondent No. 3.

2. Issue notice to Respondent No. 4. Steps be taken within a week.

3. Learned Counsel for petitioner challenging the notification u/s 4 read with Section 17(1) and 17(4) has contended that the land is sought to be acquired under the Housing Development Scheme and there was no ground for dispensing with inquiry u/s 5A of the Act. It is submitted by the petitioner that in pursuance of the Government Order dated 21.5.2005 the petitioner has applied for grant of license as he had purchased/assembled the land which is sought to be acquired.

4. Sri Jatav, learned Counsel for the Respondent submits that there was urgency in the matter, hence provision of Sections 17(1) and Section 17(4) were invoked.

5. The learned Counsel for the petitioner has relied upon a Judgment of Apex Court in Civil Appeal No. 2523 of 2008 (Anand Singh and Anr. v. State of U.P. and Ors.) decided on 28th of July, 2010. It is submitted that the dispensation of enquiry u/s 5A has to be in exceptional circumstance and not in a routine manner. He submits that there is no ground for dispensing with the inquiry u/s 5A. Sri Jatav has lastly submitted that neither any sale deed has been filed by

the petitioner nor there is any mention in the writ petition.

6. Let a counter affidavit be filed within three weeks. Rejoinder affidavit may be filed within one week thereafter.

7. List thereafter along with Writ Petition No. 48521 of 2010 for admission.

8. In the meantime, the parties are directed to maintain status quo with regard to possession of land in dispute.