
(2019) 05 UK CK 0268
In the Uttarakhand High Court
Case No : Special Appeal No. 542 Of 2019

Harmahendra Singh	Vs	APPELLANT
State Of Uttarakhand And Others		RESPONDENT

Date of Decision : 27-05-2019

Acts Referred:

Constitution Of India, 1950 — Article 300A

Citation : (2019) 05 UK CK 0268

Hon'ble Judges : Ramesh Ranganathan, CJ; N.S. Dhanik, J

Bench : Division Bench

Advocate : Aditya Singh, B.S. Parihar

Final Decision : Dismissed

Judgement

Ramesh Ranganathan, CJ

1. Heard Mr. Aditya Singh, learned counsel appearing on behalf of the appellant-writ petitioner and Mr. B.S. Parihar, learned Standing Counsel appearing on behalf of the State Government and, with their consent, the Special Appeal is disposed of at the stage of admission.

2. This appeal is preferred against the order passed by the learned Single Judge in Writ Petition (M/S) No. 1076 of 2019 dated 26.04.2019. The appellant herein filed Writ Petition (M/S) No. 1076 of 2019 seeking a mandamus commanding the respondent-State to conduct an inquiry into the compensation given for the acquired land of the appellant-writ petitioner to another person; and a mandamus commanding the respondents to grant compensation to the appellant-writ petitioner in terms of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

3. In the order under appeal, the learned Single Judge observed that the subject land was acquired way-back in the year 1988 under the Land Acquisition Act, 1894; it was the appellant-writ petitioner's case that, though the acquired land belonged to him, the entire compensation had been given to another person; the

person, who is alleged to have taken the entire compensation for the subject land has not even been impleaded in the writ petition as a party; the appellant-writ petitioner had slept over his rights; no explanation had been furnished for the delay; and, except for a bald averment that he was following up the matter with the authorities, no details had been furnished. The writ petition was dismissed.

4. The appellant-writ petitioner's case, in short, is that, while he had purchased the subject land from Mr. Sher Singh by way of a registered sale deed in the year 1974, the son of Mr. Sher Singh i.e. Mr. Narayan Singh had, on the basis of a forged Power of Attorney, deceived the Land Acquisition Officer into paying compensation to him, instead of the appellant-writ petitioner; the matter was investigated by a Special Investigation Team constituted by the Government; the SIT had submitted a report recommending registration of an F.I.R. against Mr. Narayan Singh; proceedings for recovery of the amount, illegally paid to Mr. Narayan Singh, were instituted; and the appellant-writ petitioner cannot be non-suited on the ground of delay, more so as his Constitutional right under Article 300A of the Constitution of India has been violated thereby.

5. We asked Mr. Aditya Singh, learned counsel for the appellant-writ petitioner, as to how he was justified in seeking Prayer No. 2 i.e. for payment of compensation to the appellant-writ petitioner under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. We are saved the trouble of adjudicating the submission put forth in the writ petition, with respect to this prayer, on merits since Mr. Aditya Singh, learned counsel for the appellant-writ petitioner, would fairly state that the appellant-writ petitioner was not pressing this relief in the writ petition. The prayer, in so far as prayer no. 2 is concerned, is therefore dismissed as not pressed.

6. With regards Prayer No. 1, the appellant-writ petitioner's case, in short, is that the compensation, which should have actually been paid to him, was paid instead to Mr. Narayan Singh, albeit on a fraud committed by him against the Government; and the Government should take action to recover the said amount from him, and pay it to the appellant-writ petitioner, since it is the appellant-writ petitioner who is the owner of the land, having purchased the same from Mr. Sher Singh by way of a registered sale deed in the year 1974.

7. Elaborate submissions are made by Mr. Aditya Singh, learned counsel for the appellant-writ petitioner, to contend that the appellant-writ petitioner has been following up the matter with the authorities concerned; and it is not as if the allegations of fraud are without any basis since the SIT, constituted by the Government to examine the matter, has observed that Mr. Narayan Singh had committed a fraud, they had directed registration of an FIR against him, and had recommended that the amount paid to him be recovered.

8. While we see no reason, in the light of the aforesaid submissions, to non-suit the appellant-writ petitioner on the ground of delay and laches in instituting the

present writ proceedings, we are satisfied that the learned Single Judge was justified in holding that no relief could have been granted to the appellant-writ petitioner since Mr. Narayan Singh was not even arrayed as a respondent in the writ petition. The scope of interference in an intra-Court appeal is extremely limited, and it is only if the order under appeal suffers from a patent illegality would interference be justified. We find no such infirmity in the order under appeal on this score.

9. Since the appellant-writ petitioner complains of inaction on the part of the respondent-State, and contends that his representation dated 04.06.2018, made to the first respondent, has not even been considered till date, suffice it to modify the order of the learned Single Judge to the limited extent that the first respondent is directed to consider the appellant-writ petitioner's representation dated 04.06.2018 (a copy of which is enclosed along with the writ petition) in accordance with law and with utmost expedition.

10. Mr. Aditya Singh, learned counsel for the appellant-writ petitioner, would submit that a fresh representation would be submitted to the first respondent enclosing thereto the earlier representation dated 04.06.2018. If any such representation is filed within two weeks from today, the first respondent shall examine the appellant-writ petitioner's contentions, call for information from the officials concerned, thereafter pass an order in accordance with law, and communicate the same to the appellant-writ petitioner at the earliest and, in any event, within two months from the date of receipt of the appellant-writ petitioner's representation.

11. We make it clear that we have not expressed any opinion on merits, or to the appellant-writ petitioner's entitlement to be paid compensation after its recovery from Mr. Narayan Singh, since these are all matters for the first respondent to decide in accordance with law.

12. Subject to the aforesaid modifications, the appeal fails and is, accordingly, dismissed. No costs.