

(2010) 12 AHC CK 0166
In the Allahabad High Court
Case No : Writ Petition No.64 (LA) of 2010

Jai Gurudev Dharm Pracharak Sanstha, Mathura and Another	APPELLANT
Vs	
State of U.P.and Others	RESPONDENT

Date of Decision : 07-12-2010

Acts Referred:

Land Acquisition Act, 1894 — Section 4, 6

Citation : (2010) 12 AHC CK 0166

Hon'ble Judges : Pradeep Kant, J and Ritu Raj Awasthi, J

Final Decision : Disposed Of

Judgement

1. Notice on behalf of the respondent Nos. 1 to 3 has been accepted by the learned Chief Standing Counsel. Shri Asit Kumar Chaturvedi has accepted notice on behalf of respondent No.4.

2. Learned counsel for the petitioners has submitted that efforts have been made three times for acquiring the land in question but on intervention by the Court, the notifications were quashed, lastly a writ petition bearing No. 7829 of 1989 was filed in which interim order was passed staying the effect and operation of the notification and the petitioners are continuing in possession till date. It is said that the above mentioned writ petition was transferred from Lucknow Bench of this Court to Allahabad bearing Writ Petition No. 39911 of 1999 in which this Court passed an order on 26.02.1998 directing the State Government to file an affidavit informing the decision taken in pursuance of the direction of the Hon''ble Supreme Court in the case of M.C. Mehta (Taj Trapezium matter) v. Union of India and others, reported in (1997) 2 SCC 353 and as to whether the land is still required for industrial purposes or not but no affidavit was filed by the State Government during the pendency of the writ petition. Later on the said writ petition has been disposed of on 09.08.2010 with the direction that the petitioners'' prayer for release of the land under Section 48 of the Land Acquisition Act be considered in accordance with law.

3. Shri Krishna Chandra, learned counsel appearing for the respondents says that

all the grounds mentioned in the order of the High Court have been considered but it could not be shown in the order that anywhere the plea of release of the land has been considered.

4. In view of the fact that no consideration has been done, with respect to the plea of release of the land under Section 48, as directed in the order of the High Court, referred to above, we are satisfied that even in case the acquisition has been upheld, as the relief of quashing the notifications issued under Sections 4 and 6 was not granted in the said writ petition, though prayed for, the application for release of the land as directed by this Court in the earlier writ petition can still be considered , if possession has not been taken.

5. We also take notice of the fact that the writ petition also challenges the notifications of 11.08.1988 and 19.08.1989 issued under Sections 4 and 6 of the Land Acquisition Act. So far the relief regarding quashing of the notifications aforesaid is concerned, as already observed, the same was subject matter in the earlier writ petition but no relief was granted and therefore no second writ petition on the same subject matter can be filed and therefore, the said relief sought for in the second writ petition cannot be granted.

6. In view of the facts referred to above and the facts mentioned in the report of the Special Land Acquisition Officer, the matter requires reconsideration by the State Government. The petitioner shall make a fresh representation in this regard within three weeks and the same shall be decided by the State Government after giving opportunity of hearing to the petitioner expeditiously say within two months from the date of production of a certified copy of this order, ignoring the impugned order dated 11.11.2010 passed by the State Government.

7. Till the matter is considered and disposed of by the State Government, the status quo as it exists today, shall be maintained.

8. With the consent of the learned counsel for the parties, the instant writ petition is disposed of finally.

(Ordered accordingly)