
(1997) 05 AHC CK 0179
In the Allahabad High Court
Case No : C.M.W.P. No. 18342 of 1991

Jeevan Bima Karmchari Sahkari Awas Samiti Ltd.	APPELLANT
Vs	
State of U.P. and Others	RESPONDENT

Date of Decision : 20-05-1997

Acts Referred:

Citation : (1997) AWC 356 Supp : (1998) RD 130

Hon'ble Judges : R.K. Singh, J;D.S. Sinha, J

Bench : Division Bench

Advocate : R.P. Goyal, for the Appellant;

Final Decision : Dismissed

Judgement

D.S. Sinha, J.—Heard Sri Manish Goyal, holding brief of Sri R. P. Goyal learned senior advocate appearing for the Petitioner, at length and in detail. Sri Vinaya Malviya, learned standing counsel representing the Respondents, has also been heard.

2. Jeevan Bima Karmchari Sahkari Awas Samiti Ltd., Bareilly, the Petitioner, made a request to the Respondents to acquire plots No. 297 and 299 measuring 5.22 acres, situate at Nawada Jogiyan in the district of Bareilly for the purposes of constructing houses for its members. The request was acceded to, and Petitioner was required to deposit a sum of Rs. 99,050 as approximate compensation for acquisition of the land sought to be acquired. The Petitioner deposited the amount.

3. Thereupon, the proceedings for acquiring the land under the provisions of the Land Acquisition Act, 1894, hereinafter called the "Act" were initiated. A notification dated 21st of March, 1986, u/s 4 of the Act, was published in the Official Gazette of the State of Uttar Pradesh dated 24th May, 1986. This notification was followed by another notification dated 12th May, 1987 issued u/s 6 of the Act and was published in the Official Gazette dated 12th May, 1987. True copy of these notifications are appended to the writ petition as Annexures II and

III.

4. More than two years from the date of publication of the declaration u/s 6 of the Act elapsed but the award u/s 11 of the Act was not given by the Collector. Consequently, the whole acquisition proceedings relating to the plots in dispute lapsed in terms of Section 11A of the Act.

5. By means of instant petition, under Article 226 of the Constitution of India, the Petitioner urges the Court to issue a writ, order or direction in the nature of mandamus commanding the Respondents to deliver the possession of the land in dispute to the Petitioner or allot a portion of the disputed land which, according to it, had vested in the State Government under the Urban Land (Ceiling and Regulation) Act, 1976, hereinafter referred to as "the Ceiling Act". In support of the prayer of the Petitioner, Sri Goyal contends that the State was bound to deliver the possession of the disputed land or allot a portion thereof on the principle of promissory estoppel. Elaborating his submission, the learned Counsel submits that inasmuch as the Petitioner was required to deposit a sum of Rs. 99,050 by way of approximate compensation for acquisition of the land and the Petitioner having deposited the same, it could not be denied the delivery of possession or allotment of the disputed land.

6. Countering the submissions made on behalf of the Petitioner Sri Vinaya Malviya, learned standing counsel, submits that reliance by the Petitioner upon the principle of promissory estoppel is misplaced inasmuch as the State never promised to deliver the possession of the disputed land or to allot the same to the Petitioner. Sri Malviya submits that, at best, the Respondents had given out to start proceedings for acquisition of the disputed land under the provisions of the Act on Petitioner's depositing the approximate compensation for the acquisition of the land. Sri Malviya further submits that for allotment of the land vested in the State under the provisions of the Ceiling Act. the Petitioner has to resort to the course prescribed under the Ceiling Act itself. He draws the attention of the Court towards Section 23 of the Act which provides the manner of and procedure for disposal of the vacant land acquired and vested in the State Government under the Ceiling Act.

7. Appended to the petition are three communications to the Petitioner dated 14th December, 1987; 16th February, 1990 and 8th October, 1990 which are marked as Annexures IV, V and VII respectively. These communications go to show that the Petitioner had made a request for acquisition of the disputed land and in that connection, it had deposited a sum of Rs. 99,050 by way of compensation for the acquisition of the land. These communications also show that there was an agreement dated 8th of May, 1987 between the Petitioner and the Respondents in connection with the acquisition of the land. It may be noticed that this agreement has not been produced before the Court and the Court does not have the advantage of knowing the terms thereof. Therefore, the Court has to presume that it was a simple case of acquisition of the disputed land at the behest of the Petitioner conferring no legally cognizable and judicially enforceable

right on it qua the disputed land until it was duly acquired.

8. It is not disputed that award u/s 11 of the said Act in respect of the disputed land was not given within a period of two years from the date of the publication of the declaration u/s 6 of the Act, namely, 12th May, 1987. Section 11A of the Act mandates the Collector to make an award u/s 11 within a period of two years from the date of the publication of the declaration and provides that if no award is so made, the entire proceedings for acquisition of the land would lapse. In the instant case, no award having been given within a period of two years from the date of publication of the declaration, entire proceedings for the acquisition of the disputed land lapsed. Consequently, no right of any kind of the Petitioner survives in respect of the disputed land in pursuance of the acquisition proceedings. The reliance upon the principle of promissory estoppel is misconceived inasmuch as the Court does not find anything on record to sustain any plea of promise alleged to have been made to the Petitioner by the Respondents. What was given out to the Petitioner was merely an assurance to start acquisition proceedings in respect of the disputed land after the approximate amount of compensation for acquisition of land was deposited by the Petitioner.

9. Coming to the plea of allotment of a portion of the disputed land which, according to the Petitioner, vested in the State under the provisions of the Ceiling Act, the Court is in agreement with the submission of Sri Malviya, learned standing counsel representing the Respondents, that appropriate course for the Petitioner would be to invoke the procedure prescribed u/s 23 of the Ceiling Act, and not a writ petition. No one can claim as a matter of right the allotment of vacant land acquired and vested in the State Government under the Ceiling Act. Section 23 of the Act empowers the State Government to allot the vacant land acquired by and vested in it under the Ceiling Act to any person for specified purposes. It does not confer upon any person any legally cognizable right. Thus, the Petitioner cannot claim the allotment of any part of the disputed land, which had vested in the State under the Ceiling Act, as a matter of right.

10. The forgoing discussion leads to an inevitable conclusion that instant petition is wholly misconceived and totally devoid of substance. Consequently, the petition fails and is dismissed summarily. The interim order dated 9th July, 1991 shall stand discharged.