

(2008) 10 AHC CK 0096

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 43054 of 2008 with Civil Miscellaneous Writ Petition Nos. 43080 of 2008, 43076 of 2008 and 43082 of 2008

Lakhami

APPELLANT

Vs

State of U.P. and others

RESPONDENT

Date of Decision : 16-10-2008

Acts Referred:

Land Acquisition Act, 1894 — Section 17(1)(4), 5A, 6

Citation : (2008) 10 AHC CK 0096

Hon'ble Judges : Ashok Bhushan, J and Arun Tandon, J

Final Decision : Dismissed

Judgement

1. Short counter affidavit filed today be taken on record.
2. Head Sri V.P. Rai, learned counsel for petitioner, Sri Pradeep Kumar, learned counsel for respondent No. 5 and learned Standing Counsel for respondent Nos. 1 to 4.
3. With the consent of the parties these writ petitions are being disposed of at this stage without calling for any further affidavits.
4. Since the basic facts, relevant for decision of the dispute raised in all these writ petitions are more or less identical, and legal aspects involved are also identical, they are being decided by this common judgement. The facts recorded in Civil Misc. Writ Petition No. 43054 of 2008 are being stated for the purposes of present judgement treating the same to be the leading case.
5. This writ petition has been filed for quashing the notifications dated 31st August, 2007 [issued under Section 4 read with Section 17 (1) and 17 (4)] and dated 27th February, 2008 (issued under Section 6 of the Land Acquisition Act).
6. Learned counsel for the petitioner challenging the aforesaid notifications has contended that there was no material with State Government to dispense with the enquiry under Section 5A. He submits that the State Government has not

applied its mind to the relevant material nor has come to the conclusion that enquiry under Section 5A was to be dispensed with.

7. In view of the case so set up in the writ petition, this Court vide order dated 24th September, 2008 required the learned Standing Counsel to produce the original records relevant for invocation of the urgency clause whereby enquiry under Section 5A of the Land Acquisition Act has been exempted.

8. Today learned Standing Counsel has produced the original record before this Court.

9. We have perused the original records pertaining to the notification, issued under the land acquisition. There is a certificate of the Collector on record in Form No. 10 for invoking Section 17. Said certificates clearly mention that it is necessary to take possession invoking Clause 17, consequence of which is that enquiry under Section 5A of the Act stand dispensed with.

10. Learned Standing Counsel refers to the ordersheet (at page 14 of the original record produced) which contains the Note dated 2nd August 2007 of the Deputy Secretary, Industrial Development, UP. Lucknow, specifically adverting to Section 17 of the Act and clearly mentions that by invoking Section 17 the enquiry under Section 5A is to be dispensed with. Thus on the basis of the Note dated 2nd August, 2007, matter was placed before the Competent Authority and orders were obtained.

11. Thus, in view of the aforesaid, the submission made by the learned counsel for the petitioner that there was no material on record before the State Government nor it had addressed to the issue of invoking Section 17 (4) of the Act cannot be accepted.

12. Sri Pradeep Kumar, learned counsel for respondent No. 5 also points out that similar issues were raised in *Jasraj Singh v. State of U.P. and others*, 2008(8) ADJ 329 and after looking into the original records, the Division Bench of this Court, wherein one of us (Hon'ble Ashok Bhushan, J.) was a member, vide judgment dated 16th September, 2008 has dismissed the writ petition.

13. The facts and legal issues raised in these writ petitions are fully covered by the Division Bench Judgement of this Court in the case of *Jasraj Singh* (supra).

14. Following the aforesaid view expressed by the Division Bench of this Court in the case of *Jasraj Singh* (supra), these writ petitions are also dismissed.