
(2001) 08 AHC CK 0024
In the Allahabad High Court
Case No : C.M.W.P. No. 33475 of 1995

Morni Devi and Others

APPELLANT

Vs

State of Uttar Pradesh and Others

RESPONDENT

Date of Decision : 30-08-2001

Acts Referred:

Constitution of India, 1950 — Article 226
Land Acquisition Act, 1894 — Section 11, 16

Citation : (2001) 4 AWC 2675 : (2002) 1 UPLBEC 53

Hon'ble Judges : Lakshmi Bihari, J;D.S. Sinha, J

Bench : Division Bench

Advocate : D.V. Jaiswal, for the Appellant; Jagdish Saran and Vinay Malviya, for the Respondent

Final Decision : Dismissed

Judgement

D.S. Sinha and Lakshmi Bihari, JJ.—Heard Shri Navin Srivastava holding brief of Shri D.V. Jaiswal, the learned counsel appearing for the petitioners (the heirs and legal representatives of the sole deceased petitioner, Shri Jagdish Saran), and Shri Vinay Malviya, learned standing counsel of the State of U. P., representing the respondent Nos. 1 and 2.

2. By means of instant writ petition, under Article 226 of the Constitution of India, it is prayed that this Court may issue a writ, order or direction in the nature of mandamus, commanding the respondent Nos. 1 and 2 not to dispossess the petitioners from the eastern portion of the Plot No. 189, measuring 0.34 acres, situate in village Mau, tehsil and district Moradabad, in pursuance of the notification and declaration dated 20th March, 1967 and 24th May, 1967, respectively, issued under Sections 4 and 6 of the Land Acquisition Act, 1894, (hereinafter called the "Act").

3. It is not disputed that the notifications dated 20th March, 1967 and 24th May, 1967, have neither been withdrawn nor annulled by any competent court of law. It is also not disputed that all further proceedings in pursuance of the aforesaid

two notifications took place, and the award was duly delivered within the prescribed period.

4. Section 16 of the Act empowers the Collector to take possession of the land under acquisition after an award u/s it has been made, and provides that the land shall thereupon vest absolutely in the Government, free from all encumbrances.

5. As noticed earlier, the award in pursuance of the notifications, issued for the purpose of acquiring the land in dispute, was given by the Collector well within time. Under the circumstances, the Collector was, and is, legally empowered to take possession of the land in question. Issuance of any direction or writ in the nature of mandamus commanding the respondent Nos. 1 and 2 not to dispossess the petitioners will be directly in contravention of the provisions of Section 16 of the Act. It cannot be gainsaid that no such writ can be issued by this Court in exercise of extraordinary and discretionary jurisdiction under Article 226 of the Constitution of India which runs counter to the statutory provisions, which have not been either repealed or declared ultra vires.

6. In the opinion of the Court, the writ petition is misconceived, and devoid of substance. Accordingly, it is dismissed summarily.