

(2014) 10 AHC CK 0083

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No. 54866 of 2014

Rajendri Devi

APPELLANT

Vs

State of U.P.

RESPONDENT

Date of Decision : 14-10-2014

Acts Referred:

Land Acquisition Act, 1894 — Section 4, 48, 6

Citation : (2014) 10 ADJ 533 : (2015) 4 ALJ 310 : (2015) 108 ALR 126 : (2015) 126 RD 605

Hon'ble Judges : Arvind Kumar Mishra-I, J; Arun Tandon, J

Bench : Division Bench

Advocate : Gopal Srivastava, Advocate for the Appellant; Suresh Singh, Advocate for the Respondent

Judgement

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1. Heard learned counsel for the petitioner, learned counsel for respondent No. 4 and learned Standing Counsel for the State-respondents.

It is admitted on record that the land of the petitioners was acquired under the provisions of Land Acquisition Act, 1894. It is also admitted on record that the petitioners have taken compensation for the land, which had been so acquired.

What is missing from the writ petition is as to on what date the notifications under Sections 4 and 6 of the Land Acquisition Act, 1894 were made and on what date petitioners had actually received the entire compensation.

2. Learned counsel for the petitioners refers to the letter of the Principal Secretary, Industrial Development Department, Government of U.P. at Lucknow dated 24th April, 2010 enclosed as Annexure-2 to the writ petition for the reliefs prayed for in the present writ petition i.e. for the acquired land being leased in his favour.

3. We have gone through the letter of the Principal Secretary dated 24th April,

2014 and we find that in the letter it has been recorded that in exceptional circumstances i.e. where there is a dispute with regard to the acquired land being Abadi, where there is public agitation against acquisition or law and order situation has arisen, the Noida, Greater Noida and Yamuna Express-way Industrial Development Authorities, while recommending de-notification of the acquisition, may examine the leasing out of property in favour of the person whose land has been so acquired.

4. We are of the considered opinion that such Government Orders/Letters of the Principal Secretary cannot be made a tool to reopen the settled acquisition proceedings specifically where the land holder has accepted the compensation without protest.

5. The State Government has to keep in mind the provisions of Section 48 of the Land Acquisition Act which confers a right upon the State Government to withdraw from the acquisition any land, possession whereof has not been taken, meaning thereby that where the possession of the acquired land has been taken, there cannot be a withdrawal of any land from the acquisition proceedings covered by Sections 4 and 6 of the Land Acquisition Act.

6. We may record that a Division Bench of this Court in the case of Abdul Salam alias Babu Vs. State of U.P., , has specifically held that once the land has been acquired under the provisions of the Land Acquisition Act and possession has been taken, no application for release of the acquired land from the acquisition proceedings can be made before the State Government. What logically follows is that the letter of the Principal Secretary dated 24th April, 2010 can be read to mean that power to de-notify the land would be available to the State Government only where the possession of the land has not been taken under the Land Acquisition Act. Where the possession has been taken, the letter of the Principal Secretary dated 24th April, 2010 will have no application.

Therefore, there cannot be any mandamus as prayed for in the facts of the case.

In view of the aforesaid, the present writ petition is dismissed.