
(1999) 07 AHC CK 0104

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 29679 of 1999

Ravindra Kumar

APPELLANT

Vs

District Magistrate Agra & Ors.

RESPONDENT

Date of Decision : 21-07-1999

Acts Referred:

Constitution of India, 1950 — Article 226
Land Acquisition Act, 1894 — Section 23(1A), 23(2), 4

Citation : (1999) 07 AHC CK 0104

Hon'ble Judges : M.Katju, J

Final Decision : Allowed

Judgement

M. Katju. J.

1. Heard learned counsel for the parties.
2. The petitioner claims that his land was acquired under the Land Acquisition Act and he has prayed that he should be given an appointment in the Department.
3. It is not denied that the petitioner has received full compensation as provided under Section 23 of the Land Acquisition Act which means an amount equal to full market value of the land with interest as well as solatium under Section 23 (2) which is equal to 30% of the market value. I cannot understand under which law a person can get a job in addition to this compensation.
4. The Land Acquisition Act takes care of the difficulties of a person whose land has been acquired by granting 30% solatium under Section 23 (2) in addition to the full market value of the land which has been acquired. Thus, if the market value of the land acquired is Rs. 1 Lac, the owner will get not only Rs. 1 lac but an additional Rs. 30,000 as solatium Le. he will get Rs. 1.30 Lac with interest at 12% from the date of the notification under Section 4 to the date of award or the date of taking possession whichever is earlier, vide Section 23(1A).
5. This grant of solatium in addition to full market value of the land has obviously

been made to cater to the difficulties of the person whose land has been acquired. There is no provision in the Land Acquisition Act to grant a job in addition to the amounts specified in Section 23. Hence, any Government Order for providing a job in addition to the compensation provided under Section 23 is in my opinion violative of the provisions of the Land Acquisition Act, for such a Government Order will amount to amendment of Section 23, which will be illegal.

6. Learned counsel for the petitioner has relied on the decision of Hon''ble R. A. Sharma, J. in Writ Petition No. 28795 of 1992 Umesh Chandra Srivastava v. District Magistrate, Gorakhpur, decided on 141294. However, learned counsel for the respondents has relied on the judgment of Hon''ble G.P. Mathur, J. in Writ Petition No. 27690 of 1991 Dau Dayal v. Aura Development Authority and others, decided on 21 51995.

7. I am inclined to agree with the view of Hon''ble G.P. Mathur, J. and respectfully disagree with the judgment of Hon''ble R.A. Sharma, J. I agree with Hon''ble G.P. Mathur, J. as there is no provision for granting a job in addition to the compensation provided for in Section 23 01 the Land Acquisition Act. Moreover grant of such a job in my opinion will be in violation of Articles 14 and 16 of the Constitution. It is well known that there is already surplus staff in most Government Departments and further jobs cannot be given in this manner. However, since there appears to be some conflict of opinion on this point I am of the opinion that a larger bench should decide the matter. Let the record of this case be placed before Hon''ble the Chief Justice for constituting a larger Bench. Sri S.K. Gupta has appeared for the respondents.

Reference made to larger Bench.