(2019) 07 UK CK 0250

In the Uttarakhand High Court

Case No : Special Appeal No. 733 Of 2019

Shanti Devi And Others — APPELLANT

Vs

Tehri Hydro Development Corporation And Others — RESPONDENT

Date of Decision : 30-07-2019

Acts Referred:
Land Acquisition Act, 1894 — Section 4(1), 6

Citation : (2019) 07 UK CK 0250

Hon'ble Judges : Ramesh Ranganathan, CJ;Alok Kumar Verma, J

Bench : Division Bench

Advocate : Siddhartha Singh, Shobhit Saharia

Final Decision : Dismissed

Judgement

Ramesh Ranganathan, CJ

1. This appeal is preferred by the petitioner in WPMS No. 1847 of 2019 aggrieved by the order passed by the learned Single Judge, dated 27.06.2019, dismissing the writ petition.

2. The petitioner invoked the jurisdiction of this Court seeking a writ of certiorari to quash the order dated 18.06.2018; a writ of mandamus commanding the first respondent to take appropriate action against the private respondents for taking undue advantage on the basis of a forged and concocted Will; and to grant all the benefits to the petitioners consequent on acquisition of their land.

3. Facts, to the limited extent necessary, are that the subject lands were acquired by the State Government for the benefit of the Tehri Hydro Development Corporation. A notification, under Section 4(1) of the Land Acquisition Act, 1894, was issued on 13.09.2000, the Section 6 declaration was issued thereafter on 23.01.2002, and an award was passed on 16.01.2004. After payment of compensation to those, whose names were recorded as land owners in the revenue records, the State Government took possession of the land, and handed them over to the Tehri Hydro Development Corporation.

4. More than three years after an award was passed on 16.01.2004, the appellants-writ petitioners challenged the entry in the revenue records contending that their cousins had got their names entered in revenue records on the basis of a forged and fabricated Will. Accepting the appellants-writ petitioners' claim, their names appear to have been recorded as tenure holders, over the subject property, in the year 2007, though, long prior thereto, these lands stood vested in the State Government consequent on an award being passed on 21.01.2004

5. Be that as it may, when the petitioners, thereafter, sought rehabilitation, and submitted an application to the Director, Rehabilitation, an order dated 18.06.2018 was passed rejecting the appellants-writ petitioners' application holding that, on completion of acquisition proceedings, land stood vested in the State Government; and the State Government was not a party to the revenue proceedings.

6. Aggrieved thereby, the appellants-writ petitioners invoked the jurisdiction of this Court. In the order under appeal, the learned Single Judge observed that merely because of a change in the names of the land owners in the revenue records, the petitioners were not entitled to claim compensation which had already been given to the private respondents; and, in case the compensation had been wrongly taken by the petitioners' cousins by fraud and misrepresentation, it was always open to the petitioners to approach the competent Civil Court or initiate criminal proceedings against the private respondents. The writ petition was, accordingly, dismissed.

7. Mr. Siddhartha Singh, learned counsel for the appellants-writ petitioners would submit that the learned Single Judge had erred in placing the onus on the appellants-writ petitioners to initiate legal proceedings against the perpetrators of the fraud; the fraud was, in fact, played by the private respondents, not only upon the appellant-writ petitioner but also on the State Government which was, therefore, obligated in law to initiate action against the private respondents for fraud; and this Court should consider directing the State Government to initiate action, against the private respondents, to recover the compensation paid to them, and then pay the said amount to the appellants-writ petitioners.

8. Mr. Shobhit Saharia, learned Counsel for the Tehri Hydro Development Corporation, would submit that the matter was remanded to the Director, Rehabilitation only because the appellants-writ petitioners had sought rehabilitation benefits; the Director, Rehabilitation, by the order impugned in the writ petition, had observed that, in terms of the rehabilitation & resettlement policy, it is only those persons, whose names are entered in the revenue records as the land owners on the date on which the Section 4(1) notification was issued, who were entitled to be extended rehabilitation and resettlement benefits; and since the appellants-writ petitioners' names were not entered in the revenue records, at the relevant time, it is those, whose names were so recorded in the revenue records, who were extended such benefits.

9. While the appellants-writ petitioners appear to have sought all benefits, including payment of compensation and for rehabilitation and resettlement, it is not disputed before us that the policy framed by the Government required the rehabilitation and resettlement benefits to be given to those lands owners whose names were recorded as such in the revenue records when the Section 4(1) notification was issued; and, accordingly, the private respondents were extended the said benefits.

10. As noted hereinabove, an award was passed, after complying with the procedural requirements of the Land Acquisition Act, 1894, on 16.01.2004. It is not in dispute that, during the relevant time, i.e. before the award was passed, the revenue records contained the names of the private respondents as the land owners. It is debatable whether the revenue records could have been altered thereafter, in the year 2007, substituting the names of the private respondents with that of the appellants-writ petitioners, when, by that time, the land stood vested in State Government which was the owner of the subject land. As has been observed by the learned Single Judge, in our opinion rightly, the State Government was not even a party to the proceedings instituted in the year 2007 by the appellants-writ petitioners seeking rectification of the entries in the revenue records.

11. The learned Single Judge has adequately safeguarded the appellants-writ petitioners' interest, by leaving it open to them to avail their common law remedy of filing a suit against the private respondents, or to initiate criminal proceedings, in case the private respondents had played fraud on them.

12. We see no reason, therefore, to interfere with the order under appeal. The Special Appeal fails and is, accordingly, dismissed. No costs.