(2017) 04 AHC CK 0005

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No. 63139 of 2014

Smt. Atari Devi APPELLANT

Vs

State of U.P. RESPONDENT

Date of Decision : 28-04-2017

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2017) 5 ADJ 636

Hon'ble Judges : V.K. Shukla and Ashok Kumar, JJ.

Bench : Division Bench

Advocate : Civil Misc. Writ Petition No. 63139 of 2014; R.D. Tiwari, M.D. Singh "Shekhar", Pankaj Sharma and Ramesh Upadhyay, Advocates, for the Petitioners; C.S.C., Amit Negi and Mahendra Pratap, Advocates, for the Respondents; Civil Misc. Writ Petition Nos. 8608, 7836, 7838, 67980 of 2015; Pankaj Sharma, Advocate, for the Petitioners; C.S.C., Amit Negi and Mahendra Pratap, Advocates, for the Respondents; Civil Misc. Writ Petition No. 63139 of 2014; R.D. Tiwari, M.D. Singh "Shekhar", Pankaj Sharma and Ramesh Upadhyay, Advocates, for the Petitioners; C.S.C., Amit Negi and Mahendra Pratap, Advocates, for the Respondents; Civil Misc. Writ Petition No. 63064 of 2014; Pankaj Sharma, B. Dayal, M.D. Singh "Shekhar" and R.D. Tiwari, Advocates, for the Petitioners; C.S.C. and P.P. Yadav, Advocates, for the Respondents

Final Decision : Dismissed

Judgement

V.K. Shukla, J.—Bunch of writ petitions have been filed by the villagers of different villages at District Gautam Budh Nagar before this Court with the following prayer and with the consent of parties Writ Petition No. 63139 of 2014 (Smt. Atari Devi and others v. State of U.P. and others) is being treated leading one.

"I. issue a writ, order or direction in the nature of mandamus directing the respondents not to interfere in the ownership and possession of the petitioners over the disputed land which details have been given in Annexure No. 1 to the writ petition without paying adequate compensation as per the direction of Gajraj

Singh case and another benefit accordingly the compromise arrived (Annexure Nos. 11 and 12 to the writ petition);

II. issue a writ, order or direction in the nature of mandamus directing the respondents to pay compensation minimum at the rate of Rs. 1550/- per square yard and other emoluments and benefits as directed by the Hon''ble Court in Gajraj Singh case;

III. issue a writ, order or direction in the nature of mandamus directing the respondents to pay all other benefits for which the compromise was arrived which details have been given in paragraph no. 20 of the writ petition (Annexure Nos. 11 and 12 to the writ petition); and

IV. issue any other writ, order or direction which this Hon''ble Court may deem fit and proper according to the facts and circumstances of the case."

2. Brief background of the case in hand is that petitioners before us are farmers and their grievance is that petitioners'' land has been taken by the M/s. Hi-tech Development Private Limited and qua each one of the petitioner accepted position is that they have proceeded to execute the sale deed in favour of M/s. Hi-tech Development Private Limited. Petitioners in spite of the fact that they have proceeded to sell the land in question in favour of M/s. Hi-tech Development Private Limited, submitted that price, that has been so offered to them, was totally inadequate and, in view of this, large scale agitation has been carried out as poor tenure holders have transferred their land under the threat of acquisition but the fact of the matter is that possession remain with the petitioners and other villagers and, in view of this, on the intervention of Executive Authorities, meeting for compromise was organized on 24.4.2013 and 9.6.2013 and ultimately on 28.6.2013 following terms were settled;

"I. The land owners who have already sold the land on e person of his family would be given employment on the list prepared by the Up Ziladhikar, Dadri, Gautam Budh Nagar.

II. The hereditary farmers who have been paid compensation at the rate of Rs. 850/- per square yard by the company without any Abadi land, they will be given 8% of their acquired land for Abadi without any cost.

III. The hereditary farmers who have been paid compensation at the rate of Rs. 850/- per square yard for their balance land which has been sold at the rate of Rs. 1200/- per square yard land, they are entitled 8% Aadi land without any cost even on the latter sold land at the rate of Rs. 1200/- per square yard.

IV. The land owners who have been sold their land at the rate of Rs. 1200/- per square yard but they have not get the Abadi land those land owners are also entitled to get 8% of the land for Abadi, they could get on the payment of Rs. 1845/- per square yard to the company for the 8% land of Abadi.

V. The development of the Abadi land would be done on the term of the NOIDA and the same would be allotted within three months and the compensation would be given within the period of one year.

VI. The hereditary landless persons of the village would get 17 square yard land per head from the company/respondent no. 7 accordingly the list prepared by the Up Ziladhikari, Dadri. The entire exercise be completed within six months and the land would be handed over within the period of one year.

VII. The development of the village Dujana would be done by the respondent no. 7 which include Panchayat Ghar, Stadium, Shamshan Ghat, Degree College, Polytechnic, land for Dadi Sati Mela and its development, beautification of pond, renovation of the temples, development of Chaupal, Library, CC road, water supply, sewer line and medical dispensary.

VIII. The developer of Hi-tech City withdraw the litigation pending against the land owners.

IX. On above terms and conditions the land owners would cooperate the Hi-tech City developers so that the developers can discharge their liability without any hindrance."

3. Petitioners have further proceeded to mention that the aforesaid compromise dated 9.6.2013 was arrived again by defrauding the land owners i.e. petitioners and others of the four villages Dujana, Kachhera @ Kachhera Varsabad, Duriyai and Hathipur Khera @ Talabpur without paying the compensation and the fact of the matter is that petitioners are entitled for compensation in consonance with the Full Bench judgment of this Court in the case of Gajraj Singh and others v. State of U.P. and others, 2011 (11) ADJ 1 (FB), and petitioners submit that all of them were given allotment letter for Abadi and all of them claim to have complied with the order in question but same was not respected by the developer and, in view of this, petitioners are before this Court with the prayer, already quoted above, claiming therein that they are entitled for compensation at the rate of 64.7% excess to the payment made to them under the direction of this Court in the case of Gajraj Singh (supra) and further petitioners are entitled of the 10% developed land in the ratio of their acquired land as per the direction given in the case of Gajraj Singh (supra).

Petitioners have also proceeded to detail out that Ansal Builders had also purchased land on the same pattern in the adjoining villages for meagre sum, same also led to agitation and led to compromise inter se farmers and M/s. Uttam Steel and Associates (Consortium) Company on 3.9.2013. Supplementary affidavit has been filed by the petitioners appending therein papers of resumption done by the District Magistrate time to time which disclosed the rate of compensation at the rate of Rs. 1100/- per square meter and papers regarding the consideration of the petitioners'' grievance for equal treatment to the tenure holders who have been paid compensation under the direction of Gajraj Singh''s case and copy of the minutes of the meeting dated 24.4.2013 with the Greater Noida in the presence of the administrative authorities along with the resolution arrived by the Board in its 91st meeting which has been taken place on 20.11.2013 and the minutes of the meeting of the Board dated 23.10.2013. Thereafter, another supplementary affidavit has been filed by the petitioners appending therein copy of the notification dated 28.12.2006, copy of the notification dated 30.7.2010 and copy of the award dated 30.12.2013.

4. Counter-affidavit has been filed on behalf of respondent no. 7 and therein mention was made that the writ petition is not at all maintainable as it seeks injunction against a private limited company incorporated under the Indian Companies Act, 1956 and secondly the prayer of petitioners is for enforcement of an alleged compromise entered into between two private parties and further the remedy of petitioners is to file suit and not writ petition. Therein mention has been made that all the petitioners have voluntarily executed the sale-deed with the answering respondent and none of the land has been acquired under the provisions of Land Acquisition Act 1894 and after the judgment passed by this Court in the case of Gajraj Singh (supra) large number of writ petitions have been filed by the land owners who claimed more compensation than was awarded to them in execution proceedings and that several petitions in which the petitioners had executed sale deed and had thereafter filed writ petitions contending that the sale consideration paid was less and that sale consideration should have been paid in accordance with the notification dated 19.3.2015 and they are entitled to the decision of this Court in the case of Gajraj Singh (supra) were dismissed by this Court. Mention has also been made that totally incorrect statement of fact has been made that there has been manipulations or threat extended to any farmer of the aforesaid four villages coercing them to sell their land to the company in question. It has also been sought to be contended that answering respondent company never authorizes any of its representative to enter into any compromise on behalf of answering respondent with the agitating farmers and the petitioners for payment of any additional compensation or other benefits. Mention has been made that in effect the representative of the answering respondent were given to understand by the local administration that they are to sign on the informal document prepared by them, keeping in mind the law and order problem generally prevailing at that time in view of wide spread protests against land acquisitions and none of the representatives of the answering respondent could agree/ever agree to, nor were they authorised to enter into any compromise with the agitating farmers including the petitioners for payment of additional compensation or other benefits, in view of this, it has been contended that answering respondent is not at all responsible to ensure any further payment to the petitioners. Thereafter, supplementary affidavit has been filed by the petitioners and, thereafter, a supplementary counter affidavit and supplementary rejoinder affidavit has been filed asserting therein that petitioners are entitled for the benefit of Full Bench judgment of this Court in the case of Gajraj Singh (supra) and the fact that settlement has been arrived at between the petitioners and respondent no. 7 whereas the said situation has been disputed by developers.

5. After pleadings, mentioned above, have been exchanged, present writ petition along with others have been taken up for final hearing and disposal with the consent of the parties.

Sri M.D. Singh ''Shekhar'', Senior Advocate, assisted by Sri R.D. Tiwari, Advocate and Sri Pankaj Sharma, Advocate, submitted with vehemence that in the present case fact of the matter is that poor farmers have been exploited and have been forced to execute the sale-deed in question, in view of this, subsequent to the same as the respondents themselves have proceeded to enter into agreement in question, as such, the respondents are obligated in law to extend the benefit, as has been claimed for in the body of writ petition and, as such, writ petition deserves to be allowed by according the prayer, so made.

6. Sri Kavin Gulati, Senior Advocate, assisted by Sri Amit Negi, Advocate, appearing for the contesting respondent i.e. the developer, on the other hand, contended that present writ petition in question is not at all maintainable for the reason that petitioners proceeded to execute the sale-deed in question after accepting full sale consideration and till date none of the petitioners have come forward by filing suit for cancellation of sale-deed on the ground that sale-deed executed by them is under coercion or backed by way of manipulations contrarily petitioners, on the spot, are trying to create a situation for extracting unwarranted money over and above the amount accepted by them towards sale consideration and the fact of the matter is that petitioners are not at all entitled for even a single penny apart from the sale consideration, that has already been accepted by them, and in such a situation no relief can be accorded to them specially when subsequent agreement has no sanctity in law, having been executed under threat and coercion and by incumbents who were not entitled to represent the Developers, and dispute, if any, between the petitioners and private developer can be resolved only by way of suit.

7. Sri Shashi Nandan, Senior Advocate, assisted by Sri Pankaj Tiwari, Advocate and Sri Rajan Upadhyaya, Advocate, appearing for the Developer Company in Writ Petition No. 63064 of 2014, has contended that compromise in question has never been entered upon inter se farmers and representative of respondent no. 7 under the Chairmanship of respondent no. 6 and the fact of the matter is that the land in question has been purchased by his clients in between 4.11.2006 to 2015 and out of total 815 sale-deeds, 290 sale-deeds have been executed prior to 26.4.2008, the date of notification issued under Section 4 of the Land Acquisition Act. 89 sale-deeds were executed within one year from 24.6.2008 i.e. during subsistence of the Section 4 notification. The remaining 436 sale-deeds were executed after 23.6.2009 i.e. when Section 4 notification has already lapsed and all the sale-deeds were executed over and above the circle rate of Greater Noida applicable at the time of execution of sale-deeds and, in view of this, to say that villagers have been defrauded cannot be accepted and the situation on the spot is that farmers are misusing their position as local and are creating all sorts of obstacles to encash the situation whereas willingly in

between 2006 to 2015 land has been sold and, in view of this, writ petition, as it has been framed and drawn, is liable to be dismissed.

8. Learned Standing Counsel as well as counsel representing the Development Authority mentioned that it is true that sale-deed has been executed based on private negotiations wherein neither the State nor the Development Authority had any role to play and intervention had been made by them to diffuse the prevailing situation and nothing beyond the same.

9. After respective arguments have been advanced the factual situation on which there is no dispute that petitioners of leading writ petition are farmers and resident of village Dujana, village Hathipur Khera @ Talabpur, village Duriyai and village Kachhera @ Kachhera Varsabad, District Gautam Budh Nagar, and petitioners of other connected writ petition are farmers of other villages detailed out in the body of writ petition, and this much is also reflected that for development of hi-tech township in U.P. a scheme in question was floated and pursuant thereto to encourage the development of hi-tech township by private sector involving development of 1500 acres area within a period of five years with a minimum investment of Rs. 750 crores special investment package were invited in following terms :

"(1) Offers for the development of township shall be invited from reputed and experienced developer companies (defined in Section 3 of Company''s Act). The developer companies shall be selected on the basis of financial capability, company profile and technical resource, experience in real estate development, conceptual plan and ''prefeasibility report''. The annual turnover of Developer Company should be Rs. 100 Crore.

(2) The selection of the Developer Company shall be decided by a High Power Committee chaired by the Chief Secretary, Government of Uttar Pradesh in the order of merit on the basis of evaluation of proposal received from the developer companies through advertisement in the national dailies.

(3) Land for the development of township shall be acquired for such Developer Company by the Development Authority/Housing Board or any other state agency under the provisions of Land Acquisition Act, 1894 or U.P. Housing and Development Board Act, 1965 or purchased by the Developer Company directly and as far as possible compensation shall be determined through negotiations. The developer shall also be involved in the process of negotiations. In such cases where compensation could not be settled through negotiation, the same shall be determined by the District Collector under the provisions of Land Acquisition Act, 1894 or the relevant Act. In case of any dispute relating to land acquisition or increase of compensation by the Court in future all liabilities shall rest with the Developer Company.

(4) The total cost of land would be borne by the developer company; however 10% acquisition charges levied by the Collector shall be waived in this package.

(5) The Developer Company shall be exempted from stamp duty for initial purchase of transfer of land, which will be on a lease hold title for ninety years. Stamp duty charges on the properties sold after the development and freehold conversion charges at the rate of 12 percent of the lease premium of the land shall be payable by the Developer Company/allottees to the concerned acquiring body at the time of subsequent sale/freehold conversion.

(6) The land use structure in the proposed township, comprising of residential, commercial, institutional, green areas and community facilities etc., shall be in accordance with the norms and standards prescribed in the Master Plan, Guidelines and Building Bye-laws for the time being in force. The proposed township shall be environmentally sustainable.

(7) The Developer company shall prepare and submit a Detail Project Report (DPR) of the township within 180 days after the selection and this report will comprise layout of the proposed township, land use plan, infrastructure and services development plan, standards and specifications, implementation schedule, resource mobilization, property management, operation and maintenance details etc.

(8) The designated authority will grant necessary approval of DPR within 30 days of its submission. The Developer Company will obtain necessary clearances from any statutory body other than the State Government. Developer Company will have flexibility of interchanging land use in the project area subject to the condition that percentage of land earmarked for any land use shall be as per norms and guidelines prevailing at the time of commencing of the project. Approval of detail project report by the designated competent authority will imply approval of DPR in this package shall be prescribed separately.

(9) The Developer Company shall have the option to carry out the entire internal and external development works as per standards and specifications laid in the DPR without any extra charges. If the township is self-contained, facilities for providing services such as road connection, effluent disposal, water supply, etc. will be extended on the payment of actual proportionate cost incurred by the concerned state authority/agency. No external development charges will be payable by the developer company merely for the general use of city infrastructure by residents of the proposed township.

(10) Land for community facilities such as police stations, fire station, post office, telephone exchange etc. shall be provided free of cost by the Developer Company. The Government will facilitate establishment of other aforementioned facilities in the proposed township. The State Government will establish police station in the township on earmarked land free of cost.

(11) Government policies and the relevant codes of BIS/IS relating to disaster management shall be strictly adhered to in the land use planning and construction works.

(12) Government will nominate an agency such as Development Authority or U.P. Housing and Development Board to enter into an agreement to supervise implementation of project in accordance with and as per time schedule prescribed in the DPR and to inspect the quality of external and internal development to ensure that they are as per provisions of DPR.

(13) Safeguards to ensure that the Developer Company completes the project as per the DPR provisions, the designated authority shall retain the transferable right on 25 percent of leased land so as to take the ownership and complete any shortcomings through its disposal.

(14) The Developer Company shall maintain the services till they are transferred to the local body and shall have right to collect maintenance charges. The local body shall not collect house tax, water tax, and sewerage tax from the township till it takes over the operation and maintenance of the services."

10. Under the scheme of things provided for land for the development of hi-tech township was to be acquired for such Developer Company by the Development Authority/Housing Board or any other State Agency under the provisions of Land Acquisition Act, 1894 or U.P. Housing and Development Board Act, 1965 or purchased by the developer company directly and as far as possible compensation was to be determined through negotiations. The developer was also required to be involved in the process of negotiations and, in such cases where compensation could not be settled through negotiations, the same shall be determined by the District Collector. Thus, under the scheme of things provided for, developer was fully entitled to go for the land by the process of negotiations and, in the present case, accepted position is that each one of the petitioners, who are farmers, have admittedly proceeded to enter into transaction in question with the developer by way of registered sale-deed and the terms of the sale-deed clearly reflects that whatever rights they had in the property in question stood transferred in favour of transferee company and no more rights remained with the petitioners in the land in question.

11. Once such is the factual situation that is so emerging that each one of the petitioner, who happens to be a farmer, had proceeded to sell his parcel of the land in lieu of the sale consideration mentioned in the sale-deed, then it has to be accepted that inter se parties in reference to the land in question there has been a concluded contract. Record in question reflects that the farmers who were all local incumbents and who had entered upon into transaction by executing the sale-deed also tried to encash the situation as, at the said point of time, there has been resentment against the land acquisition proceedings i.e. compulsive sale and there were protest against the same and ultimately a Full Bench of this Court in the case of Gajraj Singh (supra) proceeded to increase the compensation by 64.7% and provided allotment of developed Abadi land to the extent of 10% of the developed land.

12. Petitioners are contending that they are also entitled for the similar

treatment and in this direction it has also been contended that an agreement has been arrived at in between the petitioners and developer in presence of state officials and, as such, the agreement in question should be enforced and all the benefits of Gajraj Singh''s case be extended to them.

13. Suffice is to mention that as far as present case in hand is concerned, at no point of time, the land that has been sold by the petitioners has ever been subject matter of acquisition under the Land Acquisition Act, 1894 and has ever been acquired rather the fact of the matter is that as per the recital of the sale-deed the transaction was voluntarily one and, in view of this, once the sale-deed was a voluntarily one and the provisions of Sections 4 and 6 of the Land Acquisition Act, 1894, have not at all been invoked for acquiring the land, then the benefits, that have been extended by this Court in the case of Gajraj Singh (supra), certainly cannot be extended by us and especially when the Apex Court in the case of Savitri Devi v. State of U.P. & others, 2015 (7) SCC 21, has clearly proceeded to make a mention that "the directions of the High Court are given in the unique and peculiar/specific background and, therefore, it would not form precedent for future cases". Keeping in view all these peculiar circumstances of the case, thus even the Apex Court in the case of Savitri Devi (supra) has clarified that the directions given by the High Court would not form a precedent for future cases and, as such, in the present case, petitioners cannot claim as a matter of right that they should be accorded benefit on the same terms as has been given in the case of Gajraj Singh (supra) by increasing their compensation at the rate of 64.7% and for issuing directives to allot 10% of developed Abadi land to each one of the land holders.

14. At this juncture, we also take note of the judgment of Apex Court in the case of Ranveer Singh v. State of U.P. and others, decided on 22.7.2016 in Civil Appeal No. 13324 of 2015, wherein the incumbent whose land was acquired by the authorities of State of U.P. under the provisions of Land Acquisition Act 1894 on the basis of an agreement for compensation dated 27.2.2003 followed by instant payment of such compensation, the incumbent subsequently claimed interest under Section 34 of the Act from the date 15.2.2001 when admittedly the possession of the land was taken over by the state authorities and till 27.2.2003, the said claim was rejected by the concerned District Magistrate vide order dated 6.8.2005 passed pursuant to the order of High Court dated 12.4.2005 in appellant''s earlier writ petition no. 38951 of 2002. In the said case entire compensation amount was paid on the same date and the said amount was accepted without any demur or protest and, in such a situation, the issue was as to whether in the aforesaid facts after entering into an agreement under the Rules of 1997 and accepting the agreed amount without any protest or demand for further interest, the appellant can claim interest on the ground of Section 34 of the Act for the period that had already lapsed.

15. Apex Court after considering the relevant statutory provisions has concluded that once an agreement has been entered upon under the Rules of 1997 and the

payment has been immediately accepted, thereafter, as per the agreement the incumbent is debarred from claiming any further amount or to raise any protest before any forum on any basis including on account of interest. This judgment in question applying the same analogy in reference of sale-deed indicates and points out that once sale-deed has been executed and sale consideration has been accepted without any demur and without any protest, then, thereafter, the petitioners are debarred from claiming any further amount or to raise any protest before any forum that in spite of the fact that they have proceeded to execute the sale-deed, sale consideration is inadequate.

16. The view that has been taken by us has also been taken by a coordinate Bench of this Court in Writ Petition No. 32151 of 2016 (Jumman Khan and others v. State of U.P. and others) wherein the Division Bench has held as follows;

"The petitioners'' land was purchased by the State and the sale deed has been executed and possession has been taken. Consideration as mentioned in the sale deed has already been paid to the petitioners.

The petitioners have filed the present writ petition contending that the sale consideration paid was less and that sale consideration should have been paid in accordance with the notification dated 19.3.2015.

Having heard the learned counsel for the petitioners, we are of the opinion that when a sale deed has been executed with open eyes and with consent it is no longer open to the petitioners to contend that a lesser consideration was paid to them. If fraud has been played, the remedy available to the petitioners is to file a suit for cancellation of the sale deed.

The writ petition is dismissed."

17. Thereafter, another Division Bench of this Court in Writ Petition No. 50200 of 2015 (Mool Chand Sharma v. State of U.P. and others) where sale-deed has already been executed, has refused to entertain the writ petition in question for enhancement of the price of the land so transferred by the petitioner in following term;

"Heard learned counsel for the parties.

It is admitted on record that the petitioner has already executed a sale-deed in respect of his land holding in favour of Yamuna Expressway Industrial Development Authority with open eyes, which has since been registered. We see absolutely no reason to entertain any application for enhancement of the price of the land so transferred by the petitioner.

The present writ petition stands dismissed."

18. Another coordinate Bench of this Court in Writ Petition No. 6176 of 2012 where sale-deeds have been executed and wherein benefit of Gajraj Singh''s case has been claimed, this Court has turned down the said claim as follows;

"Heard learned counsel for the petitioners, Shri Ramendra Pratap Singh, learned counsel appearing for respondent no.3 and learned standing counsel appearing for respondents no. 1 and 2.

By this writ petition the petitioners have prayed for issue of writ of mandamus commanding the respondents to grant them enhancement of compensation as well as developed land in pursuance of judgment of Full Bench dated 21.10.2011 in Gajraj Singh''s case.

From the materials brought on record, it is clear that the petitioners in this case have executed sale deed dated. 22.2.2006 in favour of Greater Noida Industrial Development Authority with regard to the land in question on consideration which was mentioned in the sale deed. The petitioners having executed the sale deed of the lands in dispute they are not entitled for the benefit of the decision of Full Bench passed in Writ Petition No.37443 of 2001 (Gajraj and others v. State of U.P. and others) decided on 21st October, 2011. The petitioners having voluntarily executed the sale deed, they can not claim that the compensation is inadequate nor any such claim can be considered at this stage.

With these observations, the writ petition is dismissed."

19. The judgment of coordinate Bench of this Court having held that once sale-deed in question has been executed of the land in dispute, then the incumbent is not at all entitled for any further amount on the pretext and premises that it is inadequate. We also proceed to follow the same principle by holding that once sale-deeds stood executed with regard to the land on consideration which was mentioned in the sale-deed, then no further amount can be claimed in lieu of the same.

20. To counter the view of the coordinate Bench of this Court, learned counsel for the petitioners has proceeded to place reliance on another coordinate Bench judgment of this Court passed in bunch of writ petitions leading one being Writ Petition No. 47418 of 2011 (Dhani Ram and others v. State of U.P. and others) wherein this Court proceeded to pass the following order;

"All the aforesaid writ petitions have been filed challenging the notifications dated 19.01.2007 and 11.07.2007 issued under Section 4 & 6 of the Land Acquisition Act, 1894 acquiring land for planned industrial development in district Gautam Budh Nagar through the respondent no. 2, U.P. State Industrial Development Corporation Limited. After acquisition, the land was allotted in favour of the respondent no. 4, M/s. Shiv Nadar Foundation, which after taking over possession has established an University by the name of Shiv Nadar University.

During the pendency of the proceedings, the petitioners and the respondent no. 4 entered into a compromise. A joint application along with affidavit containing the terms of the compromise arrived at between the parties has been filed and is taken on record. The terms of compromise arrived at between the parties, as recorded in the application duly supported by affidavit, reads as under :

"2. The Petitioners acknowledge that pursuant to the said acquisition :

(i) The petitioners have been paid and/or have become entitled to receive compensation at the rate of Rs.850/- per square meter of the land acquired from them.

(ii) Possession of the land has also been taken from the Petitioners and the same has been ultimately handed over to Respondent No. 4 by the Respondent No. 2 in 2009 over which Respondent No. 4 has constructed Shiv Nadar University with an investment hitherto of approximately Rs.800 crores.

(iii) Shiv Nadar University has been granted statutory status by the Government of Uttar Pradesh by the Shiv Nadar University Act, 2011 and has been operating since July, 2011 as a fullfledged university on the acquired land with a present strength of more than 1800 students and more than 350 academic and nonacademic staff.

3. That during the pendency of the above entitled Writ Petition, the Petitioners and the Respondent No. 4 have agreed to compromise and settle the Petitions and their disputes and differences in the following terms :

(i) In view of the acknowledgements recorded in para 2 above, at the request of the Respondent No. 4 the Petitioners unequivocally accept as valid and binding them the acquisition of their lands by the State of Uttar Pradesh and waive and disclaim any and all rights that they have or claim to have hereafter to challenge or continue challenge of their lands in Village Chithera, Tehsil and District Dadri, Uttar Pradesh and will forthwith withdraw the captioned Writ Petition.

(ii) In consideration of the Petitioner''s acknowledgement, acceptance, waiver and disclaimer in terms of sub-para (i) above and on withdrawal of the captioned Writ Petition in terms of this Application, the Respondent No. 4 agrees to pay the Petitioners an additional compensation made up as follows :

(a) An additional sum of Rs.549.95 per square meter of the land acquired from each of the Petitioners;

(b) An additional 4% developed land in addition of existing 6% developed land, making it total 10% developed land to the land losers in terms of the judgment dated 21.10.2011 of the Hon''ble High Court of Judicature At Allahabad in Gajraj & Others v. State of Uttar Pradesh and Others in Civil Miscellaneous Writ Petition No. 37443 of 2011 Reported at 2011 (11) ADJ 1 which was upheld by the Hon''ble Supreme Court of India by its judgment dated 14.05.2015 in Savitri Devi v. State of Uttar Pradesh & Ors. Reported at (2015) 7 SCC 21.

(iii) The sums payable by the Respondent No. 4 under sub para (ii) above shall be deposited by the Respondent No. 4 with the Land Acquisition Collector, Dadri within 2(two) weeks from the date of dismissal of the above entitled Writ Petition in terms hereof, with instructions to disburse the amount(s) specified in Subparagraph 3(ii) hereof to each of the Petitioners in accordance with their respective entitlement.

(iv) The Petitioners and the Respondent No. 4 shall make a joint application to the Hon''ble Allahabad High Court for recording the compromise in terms hereof and for dismissing the above entitled Writ Petition as withdrawn by the Petitioners in terms hereof."

The prayer made in the joint application filed on behalf of the parties is as under :

"It is, therefore, most respectfully prayed that this Hon''ble Court may graciously be pleased to:

(i) Take this compromise on record;

(ii) Dismiss Writ Petition No. 47418 of 2011 (Dhani Ram and Others v. State of Uttar Pradesh and Ors.) as withdrawn in terms of the compromise recorded."

In view of the aforesaid facts and the prayer made in the application, all the writ petitions stand dismissed as withdrawn in terms of the compromise."

21. This particular judgment will not at all come to rescue of the petitioners for the simple reason that in the aforementioned writ petition petitioners have challenged the notification dated 19.1.2007 and 11.7.2007 issued under Sections 4 and 6 of the Land Acquisition Act, 1894 and then during the pendency of the proceedings, petitioners and respondent no. 4 have entered into compromise and a joint application along with the affidavit containing the terms of the compromise arrived at between the parties. Here, in the present case, the land in question in no way has been subject matter of acquisition under Sections 4 and 6 of the Land Acquisition Act, 1894 rather each and every parcel of the land has been transferred by way of sale-deeds and, in view of this, the judgment that is being relied upon by the learned counsel for the petitioners in Dhani Ram''s case is of no consequence.

22. The larger issue before us is that it appears that on the spot petitioners, who are locals and farmers, though they have proceeded to execute the sale-deed but in reality over some parcel of the land they continue to retain their possession and such a situation was being encashed by them, in view of this to diffuse the situation, it appears that District Administration also intervened in the matter and a compromise has been entered upon wherein for the benefit of farmers certain conditions have been agreed upon. The Developer Company is not prepared to abide by the terms and conditions of the contract by submitting that such contract cannot be enforced; farmers never complied with the terms of agreement; agreement was signed by unauthorized officials. The issue is can this Court proceed to enforce the aforementioned contract in question and especially when before this Court a counter stand is being sought to be taken by making an attempt to resile from the said contract in question by taking a stand that the incumbents who are signatory to the said contract had no authority to enter into compromise and said compromise is of no consequence.

23. Most surprisingly petitioners have even tried to disown the said compromise and have endeavoured to get the benefit of Gajraj Singh''s (Supra) case but this much fact has been repeatedly repeated by the farmers that compromise has been signed by Authorised Signatory of the Company and Company cannot be permitted to resile out of the same.

24. The law on the subject is clear that private law rights under contracts without element of public law, such rights cannot be enforced by invocation of writ jurisdiction under Article 226 and the common law remedy has to be invoked.

25. Apex Court in catena of decisions where contract entered into between the State and the persons aggrieved is non-statutory and purely contractual and rights are governed by the terms of contract has held that, no writ or order can be issued under Article 226 of the Constitution so as to compel the authorities to remedy a breach of contract pure and simple. See M/s. Radha Krishna Agarwal and others v. State of Bihar, 1977 (3) SCC 457.

26. In Divisional Forest Officer v. Bishwanath Tea Company Ltd., 1981 (3) SCC 238, following view has been taken by the Apex Court;

"In that case respondents took on lease certain land from the Government. Initially, period of lease was 15 years. The lease was to be extended for cultivation and raising tea garden and was subject to condition set out in the Lease Agreement and generally to Assam Land & Revenue Regulation and Rules made thereunder. Respondent Company approached appellant seeking permission to cut 7000 cub.ft. Of timber. Appellant took the stand that as the timber was required for a particular use which was not within the Grant, full royalty will be payable on timber so cut and removed. Respondent company paid the amount of royalty under protest and filed writ petition under Article 226 of the Constitution in the High Court alleging that upon a true construction of the relevant clauses of the Grant as also proviso to Rule 37 of the Settlement Rules, it was entitled to cut and remove timber without payment of royalty and, therefore, the recovery of royalty being unsupported by law, the appellant was liable to refund the same.

A preliminary objection was taken by the appellant to the maintainability of the writ petition on the ground that claim of the respondent flows from terms of lease and such contractual rights and obligations can only he enforced in a civil court. This preliminary objection was overruled by the High Court which proceeded to hear the matter and allowed writ petition of the respondent company. In appeal by the appellant to this Court, the decision of the High Court was reversed holding that writ as not maintainable. Following observations may usefully be quoted :"

8. It is undoubtedly true that High Court can entertain in its extraordinary jurisdiction a petition to issue any of the prerogative writs for any other purpose. But such writ can be issued where there is executive action unsupported by law or even in respect of corporation there is a denial of equality before law or equal

protection of law. The Corporation can also file a writ petition for enforcement of a right under a statute. As pointed out earlier, the respondent company was merely trying to enforce a contractual obligation. To clear the ground let it be stated that obligation to pay royalty for timber cut and felled and removed is prescribed by the relevant regulations, the validity of regulations is not challenged. Therefore, the demand for royalty is supported by law. What the respondent claims is an exception that in view of a certain term in the indenture of lease, to writ, Clause 2, the appellant is not entitled to demand and collect royalty from the respondent. This is nothing but enforcement of a term of a contract of lease. Hence, the question whether such contractual obligation can be enforced by the High Court in its writ jurisdiction.

9. Ordinarily, where a breach of contract is complained of, a party complaining of such breach may sue for specific performance of the contract, if contract is capable of being specifically performed, or the party may sue for damages. Such a suit would ordinarily be cognisable by the Civil Court. The High Court in its extraordinary jurisdiction would entertain a petition either for specific performance of contract or for recovering damages. A right to relief flowing from a contract has to be claimed in a Civil Court where a suit for specific performance of contract or for damages could be filed....".

27. Apex Court in the case of Joshi Technologies International Inc. v. Union of India and others, 2015 (7) SCC 728, wherein contract in question was not drafted in any statutory fixed format and non government bodies were having freedom of suggesting modifications in their tender bids, in such a situation and in this background, in such matters where writ petition is maintainable qua the same legal position that emerges from various judgments of Apex Court dealing with different situations/aspects relating to the contracts entered into by the State/public Authority with private parties, has been summarized as under :

(i) At the stage of entering into a contract, the State acts purely in its executive capacity and is bound by the obligations of fairness.

(ii) State in its executive capacity, even in the contractual field, is under obligation to act fairly and cannot practise some discriminations.

(iii) Even in cases where question is of choice or consideration of competing claims before entering into the field of contract, facts have to be investigated and found before the question of a violation of Article 14 could arise. If those facts are disputed and require assessment of evidence the correctness of which can only be tested satisfactorily by taking detailed evidence, Involving examination and cross-examination of witnesses, the case could not be conveniently or satisfactorily decided in proceedings under Article 226 of the Constitution. In such cases court can direct the aggrieved party to resort to alternate remedy of civil suit etc.

(iv) Writ jurisdiction of High Court under Article 226 was not intended to facilitate avoidance of obligation voluntarily incurred.

(v) Writ petition was not maintainable to avoid contractual obligation. Occurrence of commercial difficulty, inconvenience or hardship in performance of the conditions agreed to in the contract can provide no justification in not complying with the terms of contract which the parties had accepted with open eyes. It cannot ever be that a licensee can work out the license if he finds it profitable to do so: and he can challenge the conditions under which he agreed to take the license, if he finds it commercially inexpedient to conduct his business.

(vi) Ordinarily, where a breach of contract is complained of, the party complaining of such breach may sue for specific performance of the contract, if contract is capable of being specifically performed. Otherwise, the party may sue for damages.

(vii) Writ can be issued where there is executive action unsupported by law or even in respect of a corporation there is denial of equality before law or equal protection of law or if can be shown that action of the public authorities was without giving any hearing and violation of principles of natural justice after holding that action could not have been taken without observing principles of natural justice.

(viii) If the contract between private party and the State/instrumentality and/or agency of State is under the realm of a private law and there is no element of public law, the normal course for the aggrieved party, is to invoke the remedies provided under ordinary civil law rather than approaching the High Court under Article 226 of the Constitutional of India and invoking its extraordinary jurisdiction."

28. In the present case the contract in question, if any, that is being sought to be enforced, is purely a contract between the private parties i.e. the representative of farmers on one hand and representative of Developer Company, then merely because the state authorities have been also involved at the point of time when the said contract has been entered upon, such a contract cannot be dubbed as statutory contract and cannot be enforced under Article 226 of the Constitution of India and especially when private Developer Company is trying to wriggle out and trying to contend that under coercion such a contract has been entered upon by unauthorized incumbent and petitioners in spite of the fact that they have entered into private negotiations and have proceeded to execute the sale-deed are trying to encash the situation for getting additional money and land and even attacking the terms and conditions of the agreement.

29. Consequently, in the facts of the case, the contract in question accepting for the purposes of case that it has been entered upon as same is not at all a statutory contract and not at all in a prescribed format, in view of this, it cannot be enforced under Article 226 of the Constitution of India, as such, no relief or reprieve can be given to the petitioners by this Court.

30. Sri M.D. Singh ''Shekhar'', Senior Advocate, has informed us after judgement has been reserved, by means of affidavit, that the State Government is

considering the matter and has assured the farmers who have sold their land through sale-deeds that they would also get additional compensation 64.7% and other benefits, accordingly.

31. Such a move by the State Government in no way would help the petitioners before this Court for the simple reason that the prayer, that has been so made by the petitioners, certainly cannot be accorded by us for the reasons already stated by us and, in case, the State Government under the leadership of Chief Minister is considering the said matter, it is for the State and the parties to take a call in the matter outside the Court within the framework of law but once we have been called upon to intervene in the matter then certainly we would judge the matter in exercise of our authority of judicial review conferred under Article 226 of the Constitution and, accordingly, we can only see and judge as to whether in the facts of the case, on the basis of pleadings made, such a relief, as claimed by the petitioners, can be accorded by this Court. In the present case on the pleadings before us, for the reasons already stated above, no case for interference is made out.

32. Writ petitions sans merit and same are dismissed, accordingly.