
(2016) 10 AHC CK 0172
In the Allahabad High Court
Case No : Land Acquisition No. 162 of 2014

Smt. Lajjawati

APPELLANT

Vs

State of Uttar Pradesh

RESPONDENT

Date of Decision : 04-10-2016

Acts Referred:

Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 — Section 24(2)

Citation : (2017) 121 ALR 340 : (2017) 135 RD 383

Hon'ble Judges : Amreshwar Pratap Sahi and Dr. Vijay Laxmi, JJ.

Bench : Division Bench

Advocate : Kshemendra Shukla, Advocate, for the Petitioners; C.S.C., Gaurav Mehrotra, Advocate, for the Respondents

Final Decision : Allowed

Judgement

Amreshwar Pratap Sahi and Dr. Vijay Laxmi, JJ.— Heard learned counsel for the petitioners.

2. Petitioners have come up praying for declaring the proceedings of the land acquisition to have lapsed in relation to plot no. 1020, area 01 bigha, 11 biswas and 10 biswansi, situate in village Quila Mohammadi Nagar, Pargana, tehsil and district Lucknow in terms of sub section (2) of Section 24 of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

3. The respondent State was granted time on 29th October, 2014 for filing a counter affidavit. The local body for whom the land in question was acquired, was also given notices. The Lucknow Development Authority has filed a short counter affidavit dated 4.12.2014. Paras 7 and 8 of the said counter affidavit are extracted hereunder :-

"7. That award was made on 7.3.1987. The interpretation sought to be given by the petitioners to the Section 24 (2) of the Right to Fair Compensation and

Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 is misconceived, inasmuch as the intention of Legislature was that for declaring the land acquisition proceedings to have lapsed for two contingencies, namely physical possession of the land not being with the authority and compensation having not been paid must be present simultaneously. The use of expression "or" in Section 24(2) if permitted to operate in the manner in which petitioners have tried to interpret, the same would create incurable complexities in as much as in cases where compensation has not been paid but the physical possession has been taken and planning over the said land has been done and is settled in favor of lawful allottees declaring the proceedings to have lapsed would create a situation allottees of the Authority would be deprived of their land. Thus, the interpretation as has been given to the petitioner to section 24(2) is absolutely misconceived.

8. That upon having been requested, the ADM(LA) Lucknow has informed that since the petitioners have not received compensation the same has been deposited in court A true copy of the letter dated 20.11.2014 is being annexed here with as Annexure No CA- 1 to this affidavit.

That in view of what has been stated herein above, the writ petition proves to be devoid of merits and is liable to be dismissed."

4. A perusal thereof indicates that the declaration as prayed for is being resisted on the ground that, firstly, physical possession of the land had already been taken on 15.7.1986, the award was made on 7th March, 1987 and the compensation was deposited on 29.9.2014 about which a communication was sent by the Additional District Magistrate (Land Acquisition), Lucknow to the concerned official on 20.11.2014. The said document is on record.

5. It is in this background that the petitioners have come up contending that the proceedings deserve to be declared to have lapsed as indicated above and for which they have relied upon the Apex Court Judgment in the case of Pune Municipal Corporation v. H. M. Solanki, 2014 (3) SCC 183 which was later on followed and explained in the case of Delhi Development Authority v. Sukhbir Singh and others (Civil Appeal No. 8857 of 2016), decided on 09.09.2016.

6. We have considered the submissions raised and the law laid down by the Apex Court now in the case of Delhi Development Authority (Supra) was in a case where the State did not file counter affidavit and the High Court without entering into the dispute of the possession came to the conclusion that since the amount awarded as compensation had not been deposited in terms of sub section (2) of Section 24 and Section 31 of Land Acquisition Act, 1894 therefore, a deposit made in the Treasury would not suffice as an alternative substitute for deposit of the compensation. The High Court, therefore, allowed the writ petition and declared the proceedings to have lapsed. A Special Leave Petition filed against the same by the Delhi Development Authority was ultimately dismissed by the Apex Court vide judgment referred herein above where in paras 17 to 24 the law

has been categorically explain including the issue which is now sought to be raised through the counter affidavit and short counter affidavit about the use of expression (or) in Section 24 (2) of the 2013 Act.

7. It may also be placed on record that the similar arguments had been advanced on behalf of the State in Review Petition no. 105 (D) of 2015, State of U.P. v. Bhusai which was also dismissed by us vide order dated 26.09.2016.

8. We are of the considered opinion that the judgment in the case of Delhi Development Authority (supra) squarely covers the issue and consequently the petitioners are entitled to a similar declaration.

9. Consequently, the writ petition is allowed. The proceedings in relation to the acquisition of plot no. 1020, area 01 bigha, 11 biswas and 10 biswansi, situate in village Quila Mohammadi Nagar, Pargana, Tehsil and District Lucknow shall be deemed to have lapsed under Section 24 (2) of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.