
(2002) 07 AHC CK 0107
In the Allahabad High Court
Case No : C.M.W.P. No. 35056 of 2000

Smt. Raj Kali and Others

APPELLANT

Vs

Special Land Acquisition Officer and Another

RESPONDENT

Date of Decision : 16-07-2002

Acts Referred:

Constitution of India, 1950 — Article 226
Land Acquisition Act, 1894 — Section 26, 28A, 31

Citation : (2002) 3 AWC 2605 : (2002) 2 UPLBEC 1940

Hon'ble Judges : M. Katju, J; D.R. Chaudhary, J

Bench : Division Bench

Advocate : R.S. Sharma, for the Appellant; Q.H. Siddique, S.C., for the Respondent

Final Decision : Disposed Off

Judgement

M. Katju, J.—The petitioners have alleged that there is an award of the Special Land Acquisition Officer u/s 28A of the Land Acquisition Act in their favour but they have not been paid the amount awarded to them.

2. A large number of writ petitions are filed in this Court praying that the amount awarded by the Special Land Acquisition Officer or by the Judge on a reference u/s 18 of the Land Acquisition Act should be directed to be paid to the petitioner. In our opinion, this Court should not entertain these writ petitions because there is an alternative remedy u/s 31 or 26 (as the case may be) of the Land Acquisition Act.

3. If the amount has been awarded by the Special Land Acquisition Officer, then the awardee has a right to apply u/s 31 of the Land Acquisition Act before the Collector for payment of the amount awarded. On the other hand, if the amount has been awarded u/s 18 by the Judge on reference, then there is an alternative remedy u/s 26(2) of the Land Acquisition Act, because as stated in Section 26(2), the Judgment of the learned Judge u/s 18 amounts to a decree and a judgment u/s 2 Clause (2) and Clause (9) of the C.P.C. Hence the amount

awarded u/s 18 can be executed as a decree of a Civil Court and an application for this purpose should be filed before the Civil Court. Hence, in both kinds of such cases, there is an alternative remedy of applying u/s 26 or 31 of the Land Acquisition Act. This Court is hardly the appropriate forum under Article 226 of the Constitution for applying for executing the award or the judgment particularly when there is an alternative remedy.

4. For the reasons given above, this writ petition is dismissed on the ground of an alternative remedy before the Collector u/s 31 of the Land Acquisition Act.

5. The Collector will decide the petitioner's claim u/s 31 of the Land Acquisition Act in accordance with law very expeditiously since a long time has expired from the date the award was given.

6. With the aforesaid observations, the writ petition is disposed off.