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**(1997) 09 AHC CK 0107**

**In the Allahabad High Court**

**Case No :** Civil Miscellaneous Writ Petition No. 10798 of 1991

Usha and Anr.

APPELLANT

Vs

State of U.P.& Ors

RESPONDENT

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**Date of Decision :** 12-09-1997

**Acts Referred:**

Land Acquisition Act, 1894 — Section 17(1)(4), 4, 6

**Citation :** (1997) 09 AHC CK 0107

**Hon'ble Judges :** D.S.Sinha, J and O.P.Jain, J

**Final Decision :** Dismissed

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## **Judgement**

D.S. Sinha and O.P. Jain, JJ.—Heard Sri Tej Pal Singh, learned Counsel appearing for the petitioners and Sri A.N. Shukla, learned Standing Counsel representing the respondents No. 1, 2 & 3, at length and in detail.

2. Notifications dated 16th January, 1991 and 25th March, 1991 issued under Sections 4, 17(4) and under Sections 6, 17(1) of the Land Acquisition Act, 1894 (hereinafter called the Act) are under challenge in this petition under Article 226 of the Constitution of India. Notice under Section 9 of the Act dated 26th March, 1991 is also sought to be quashed.

3. The petition was entertained on 16th April, 1991. On the averments made in paragraph 57 of the petition which reads thus:

"That in identical writ petition No. 10473 of 1991 (Sanjeev Kumar and others v. State and others) regarding challenge to these very Notifications, this Hon'ble Court on 8/4/1991 issued notices and granted stay of the dispossession. True copy thereof is being filed as Annexure "XII" to this writ petition".

4. It is not disputed that the writ petition No. 10473 of 1991, Sanjeev Kumar and others v. State of U.P. and others, which involved the controversy identical to the one raised in the instant writ petition has already been dismissed by this Court on 4th August, 1997. Thus, this petition also should meet the same fate.

5. It is to be noticed that the petitioners in writ petition No. 10473 of 1991 also were represented by Sri Tej Pal Singh, the learned Counsel appearing for the petitioners in this case. After dismissal of the writ petition No. 10473 of 1991 on 4th August, 1997, the petitioners in this case got a little wiser and filed two supplementary affidavits, one on 27th August, 1997 and the other on 29th October, 1997 stating therein, in substance, that the land acquired under the impugned Notifications was excess of the actual requirement of the purpose for which it was required and seek to challenge the validity of the Notifications on that ground. This plea is founded on the circumstance that by the impugned Notification an area of 350 sq. acres was acquired but the area of only 200 sq. acres was utilised and the remaining land is still lying vacant. In the considered opinion of the Court this fact cannot justify the intervention of the Court in the impugned land acquisition proceedings.

6. The petition is devoid of substance. Accordingly, the writ petition is dismissed summarily. There is no order as to costs.