

IN THE COURT OF DISTRICT JUDGE, CHAMOLI (GOPESHWAR)

Present:-Dharam Singh, H.J.S.

Misc. Civil Case No. 58 of 2022

(CNR No.- UKCL01-0003122022)

Diwakar Bhatt, aged about 43 years, S/o Late Balkrishan Bhatt, R/o Village Pandukeshwar (Shri Badrinath), P.C. Pandukeshwar, Tehsil Joshimath, District Chamoli. At preset R/o Upper Market Joshimath, Tehsil Joshimath, District Chamoli. Mob. No. 941208244.....Petitioner.

Versus

1. State of Uttarakhand,
Through Competent Officer,
Land Acquisition/Upper District Magistrate,
Chamoli, Tehsil and District Chamoli.
2. State of Uttarakhand,
Through District Magistrate,
Chamoli.
3. Bhartiya Rashtriya Rajmarg/Project Director,
All Weather Road, Camp Office at Village Ratura,
P.O. Ratura, Tehsil Rudraprayag, District Rudraprayag.
4. Sandeep Bhatt S/o Late Shri Radhakrishan Bhatt,
R/o Village Pandukeshwar (Shri Badrinath),
P.C. Pandukeshwar, Tehsil Joshimath, District Chamoli.....Respondents.

Counsels:-

1. For petitioner.....Shri B.S. Rawat, Shri M.M. Mishra and
Smt. Geeta Bisht.
2. For Respondent Nos. 1 & 2.....Shri Manoj Bhatt, D.G.C. (Civil)
3. For Respondent No. 3.....Shri R.S. Negi
4. For Respondent No.4.....Shri S.S. Panwar.

Date: 06.05.2024

Called out.

2. Learned counsels for the parties are present.
3. The case is fixed for the order for staying the impugned order/award dated 17.08.2022, passed by the learned Additional Commissioner/Arbitrator, Garhwal Division, Pauri in Case No. 43 of 2019-20, titled as Diwakar Bhatt Vs. State of Uttarakhand & Ors. wherethrough applicant's/

petitioner request for compensation for acquiring his land building situated in Khata No. 20, Khet No. 609, at Village Badrinath, Tehsil Joshimath, District Chamoli was rejected.

4. By the way of present Misc. Civil Case filed under Section 34 of Arbitration and Cancellation Act, 1996, the plaintiff/petitioner Diwakar Bhatt has challenged the impugned order/award dated 17.08.2022 and moved an application paper no. 5C-2 for staying the impugned order/award dated 17.08.2022.

5. This court heard the learned counsels of the respective parties on previous date on stay application 5C-2 and perused the file in entirety.

6. The learned counsel for the petitioner Diwakar Bhatt, herein plaintiff, would contend that till the final hearing of the Misc. Civil Case, the impugned order/award dated 17.08.2022 may be stayed, otherwise he will suffer irreparable loss if the compensation amount is released in favour of legal heirs of Shri Radhakrishan Bhatt, the objector before the learned Arbitrator. The learned counsel for the plaintiff/petitioner has further submitted that he is the joint property holder for which the compensation has been awarded in favour of Shri Radhakrishan. But the learned arbitrator has committed a mistake by not accepting his contentions filed before it. So, till the case is finally disposed off stay order may be passed in favour of the herein plaintiff/petitioner Diwakar Bhatt.

7. In contrary to this, the learned counsels for the State and opposite party no. 4, Sandeep Bhatt, (Who is the son of Late Shri Radhakrishan Bhatt) have submitted that the learned Arbitrator has passed a rightfull order/award in terms of law and facts. The plaintiff/petitioner Diwakar Bhatt has nothing to offer to show on record that he is a joint owner/holder of the property under consideration. No document at all has been placed by him on the record. So, his stay application is meritless and deserves to be rejected.

8. In the light of the argument advanced by the learned counsels for the respective parties, this court has gone through the entire record filed before it as well as before the learned Arbitrator. The perusal of the entire record reveals that the herein plaintiff/petitioner Diwakar Bhatt has produced no document which could show that he is joint holder of the impugned property where for compensation for acquisition could have been admitted in his favour.

The learned Arbitrator after considering the claim and supporting documents in respect of the impugned property has passed a legal and analytical order/award, rejecting the claim of the herein plaintiff/petitioner Diwakar Bhatt. He has not produced any document(s) as to proprietary interest whatsoever in the impugned property before Arbitrator. This court has also legally navigated itself through the entire record and found that claim of the herein plaintiff/petitioner for the proprietary interest of the impugned property is merely in words and has no supporting document for that. The petitioner Diwakar Bhatt has submitted that the property is joint property and family settlement has happened between family members in the year 1991. But no such family settlement has been put on record, which was the onus lying on the petitioner Diwakar Bhatt. No other document as well is on the record which could justify the prima facie claim of the petitioner Diwakar Bhatt. Even more interesting, the plaintiff/petitioner claims that he is the joint holder of the impugned property alongwith herein opposite party no.4 but he did not implead him before learned Arbitrator. On the contrary objector Radhakrishan Bhatt through his power of attorney Sandeep Bhatt, who is happened to be his son, has relied upon the various documents i.e. licence to build the impugned building, the tax certificate etc. and produced the same on the record which remains unrebutted by plaintiff /petitioner Diwakar Bhatt. Therefore, the stay application 5C-2 has no merits and rejected accordingly.

ORDER

9. The stay application 5C-2 is hereby rejected. The petitioner has been requested to put the final argument in the case, but he is not willing to make the final argument requesting that he is not fully prepared as of now. Accordingly, he is directed to put up final argument on the case on the date next fixed. This would be last opportunity.

Case is fixed for argument on 27.05.2024.

**(Dharam Singh),
District Judge,
Chamoli (Gopeshwar)**