

Court No. - 29

Case :- WRIT - C No. - 65650 of 2011

Petitioner :- Yusuf Ali

Respondent :- State Of U.P. Thru Its Secy. And Others

Counsel for Petitioner :- Gulrez Khan, J.H. Khan

Counsel for Respondent :- Anuj Srivastava, Kaushalendra Nath Singh, Ramendra Pratap Singh

Hon'ble Mahesh Chandra Tripathi, J.

Hon'ble Vinod Diwakar, J.

1. The present writ petition has been pending adjudication since the year 2011.

2. A Division Bench of this Court, vide order dated 24.04.2019, passed a detailed interim order, the relevant extract of which is reproduced below for ready reference:

"In this petition, the dispute relates to Khasra plot No. 624 area 0.7590 hectare situate in village Sultanpur, Pargana and Tehsil Dadri, District Gautam Buddh Nagar.

The petitioner claimed that he is the owner and bhoomidar of the said land and is duly recorded. On the part of it the abadi of the petitioner exists. The aforesaid land was never acquired either by the State for its own benefit or for the benefit of NOIDA. Thus, it stands exempted from acquisition.

The petitioner contends that on part of said land, the respondents have carried out construction activities unauthorisedly without acquiring the land or without the consent of the petitioner.

The Court vide order dated 17.11.2011 records that in view of the fact that as on part of the said land construction activities are being carried, a joint inspection was carried out and according to the joint inspection made, it was found by the authorities that an area of 3348 square meters of land is short in plots No. 622, 623 and 624.

Thus, the Court as an interim measure directed the parties to maintain status-quo in respect of the plot No. 624 till fresh measurement is done by the authorities.

The subsequent order of the Court dated 31.05.2012 records that the petitioner is the recorded co-owner of plot No. 624 and the possession of some portion of it has been taken by NOIDA without acquiring the land. In the joint survey made by the revenue officials and the NOIDA authorities on 31.01.2012 as per report contained in Annexure-2 to the counter affidavit filed by the District Magistrate some area of plot No. 624 is in possession of the NOIDA authorities. Since the contention of the NOIDA is that there is error in the map and an application under Section 28 of the U.P. Land Revenue Act, 1901 has been moved for its correction, the NOIDA may deposit compensation equivalent to the value of the land in its possession as per the joint survey report and that the said amount may not be paid to the petitioner until the application for correction is finally decided.

It is alleged that there are no instructions if the compensation of the said land has been deposited.

It is contended that the application filed for the correction of the map under Section 28 by the NOIDA has been rejected on 06.12.2013, but now a review application is pending.

In short, what transpires from the above facts is that a portion of land of plot No. 624 which belongs to the petitioner has been unauthorisedly utilised by the NOIDA without acquisition; there are directions to the NOIDA to deposit compensation equivalent to the value of the said land as per the joint survey report; and that the said amount be not paid to the petitioner till the application under Section 28 is decided which in fact already stands rejected.

In view of the aforesaid facts and circumstances, since from the side of the respondents, an adjournment has been sought so as to get the review application for the correction of the map decided, we direct the Chief Executive Officer, NOIDA as well as the District Magistrate to file personal affidavit before the Court on or before the next date and inform as to why the compensation as directed has not been paid even though the correction application stood rejected in 2013; as to why the review application till date has not been decided; why the NOIDA authority unauthorisedly raised construction over the portion of the land of Khasra No. 624 if it has not been acquired and as to what penalty and damages should be inflicted upon them for their unauthorised activities leading to the deprivation of the petitioner to his valuable right to the property.

Put up on 8th May, 2019."

3. Thereafter, the matter was again taken up on 08.05.2019, wherein NOIDA Authority raised a counter-allegation of encroachment by the petitioner. The relevant extract of the order dated 08.05.2019 is quoted herein below:

"The Chief Executive Officer NOIDA has filed his personal affidavit in compliance with the order of this Court dated 24.4.2019.

On perusal of the said affidavit and other relevant materials on record, it is apparent that the dispute in the writ petition is regarding the land of Khasra No. 624. It is also clear that the NOIDA is in illegal possession of 1974 Sq. meter of land of the aforesaid Khasra which belongs to the petitioner. But at the same time it is being contended on behalf of the NOIDA that petitioner is also in illegal possession of certain land which belongs to the NOIDA and ultimately on adjustment only 248 sq. meter of land is surplus with the NOIDA. NOIDA is prepared to pay compensation in respect of 1974 sq. meter of land of Khasra No. 624 amounting to Rs.99,88,440/-.

Sri W.H. Khan, learned counsel for the petitioner submits that a copy of the aforesaid affidavit has been supplied to him only today, and therefore, he may be allowed some time to seek instructions and rebut the averments made therein, if necessary, for the reason that the petitioner is not in illegal occupation of any land of the NOIDA.

The District Magistrate, Noida, Gautam Budh Nagar has also filed his personal affidavit.

He may do so within a week.

List on 22.5.2019."

4. Learned counsel for the petitioner submits that, despite the aforesaid orders, NOIDA Authority has neither paid compensation nor initiated proceedings under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

5. It is further submitted that the land in question is recorded as abadi land and, therefore, the petitioner is not amenable to receiving compensation at agricultural land rates, which are deemed inadequate.

6. Shri Anuj Srivastava, prays for and is granted three weeks' time to obtain specific instructions in the matter.

7. Before proceeding further, the Chief Executive Officer, NOIDA, is also directed to file a detailed affidavit detailing the reasons under what circumstances the NOIDA Authority continues to occupy the petitioner's land without acquisition. Rejoinder affidavit, if any, may be filed within three weeks thereafter.

8. List this matter on **25.08.2025** within the top ten cases for final disposal.

9. It is made clear that no further adjournment shall be entertained as the matter has been pending since 2011 and repeated opportunities have already been granted.

Order Date :- 22.7.2025

A. Tripathi