

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 :- P.K.S. Paliwal, Gulrez Khan, J.H. Khan

Counsel for Respondent :- C.S.C., Ramendra Pratap Singh

Hon'ble Pankaj Mithal, J.

Hon'ble Prakash Padia, J.

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.**

Order Date :- 24.4.2019

Nirmal