

Supreme Court Of India

**Bench: JUSTICE SANJAY KISHAN KAUL,
JUSTICE SUDHANSHU DHULIA**

Date of Decision: 22-09-2023

Petition(s) for Special Leave to Appeal (C) No(s). 19962/2023

(Arising out of impugned final judgment and order dated 27-06-2023 corrected vide orders dated 12.7.2023 and 17.7.2023 in Contempt Application (Civil) No.1971/2017 passed by the High Court Of Judicature At Allahabad)

RAKESH KUMAR AGGARWAL [D] BY LR

Petitioner(s)

VERSUS

AMIT MOHAN PRASAD & ORS.

Respondent(s)

Sections, Acts, Rules and Articles:

Article 142 of the Constitution of India

Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013

Subject: Land Acquisition - Contempt Proceedings - Disputed land used for a bus stand - Court's order to determine compensation or restore land - Contempt initiated due to non-compliance.

Headnotes:

Land Acquisition - Contempt Proceedings - Disputed land used for a bus stand - Court's order to determine compensation or restore land - Contempt initiated due to non-compliance - Contention over the land's identity - Previous demarcation proceedings - Exercise of Article 142 jurisdiction to resolve the matter - Direction for a fresh demarcation by Revenue Authorities - Compensation if construction found, restoration if unoccupied - Question of damages left open for future determination - Parties to approach Revenue Authorities for demarcation on 09th October 2023.

Referred Cases:None.

ORDER

A quarter of a decade and it still carries on !

The allegation against the respondent Authority was that without going into the new process of acquisition of land, they sought to utilise the land of the tenure holders for various purposes including construction of a bus stand. Ultimately, the whole thing culminated in proceedings in C.A. No.7237/2011 arising out of SLP (C) No.2687 of 2010 in favour of the petitioner but noticing the larger public interest, instead of directing restoration of the land on which construction was made by New Okhla Industrial Development Authority (NOIDA) and all acquisition proceedings

having been quashed, keeping in mind the changed nature of the land, it was observed that it would be extremely harsh on part of the Court to get the entire construction demolished and restore possession of the disputed land of the petitioner. The direction which has been passed is as under:-

“(ii). Respondents shall determine compensation of disputed land at twice market value which would be determined in accordance with provisions of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, and pay the same to petitioners within three months from the date of judgment, failing which they shall restore possession of disputed land to petitioners by removing constructions, if any, raised thereon.”

The effect of the direction is that either to pay compensation in terms of the aforesaid paragraph or restore the land of the petitioner(s) to them i.e. Khasra No.276.

The respondents did neither. This resulted in contempt proceedings being initiated by the petitioners. The bone of contention in the contempt proceedings was a plea by the respondents that actually there was no bus stand on Khasra No.276 but it existed on other lands. Thus, the respondents sought to restore Khasra No.276. On the other hand the petitioner contended that what land was sought to be handed over to them was actually Khasra No.278 and not Khasra No.276.

The Court relied upon certain earlier demarcation proceedings post the judgment to come to a conclusion that the respondent had offered Khasra No.276 but that was not taken by the petitioner(s).

On the conspectus of the aforesaid circumstances there is no doubt in our mind that it is difficult to say that the aforesaid amounts to contempt even though the matter has been dragged on unnecessarily by the respondents. However, we are not prepared to let go of the matter at this stage so as to create another round of litigation.

We, thus, consider it appropriate to exercise jurisdiction under Article 142 of Constitution of India to put an end to this controversy. We are of the view that an appropriate course of action would be to direct a fresh demarcation by the Revenue Authorities. On such demarcation, if any construction is found on Khasra No.276, compensation as determined by the order dated 19.12.2016 has to be paid. If Khasra No.276 is found to be unoccupied, then that khasra number has to be restored to the petitioner(s) as prayed by them. The question whether the petitioner(s) can claim any damages for utilizing Khasra No.276 against the respondent(s) is left open to be determined in appropriate proceedings, if so advised.

We direct that both the parties will approach the Revenue Authorities and the demarcation shall be carried out on 09th October, 2023 (Monday) commencing from 11:00 a.m.

On the basis of demarcation, the Revenue Authorities will give a copy of the report to both the parties.

In view of the aforesaid exercise directed by us, the demarcation will be carried out uninfluenced by any earlier demarcation or any orders passed by the Court in the impugned proceedings.

We may note that we are more so constrained to do this as the respondent(s) did not bring it to the notice of this Court ever in the proceedings in which the Order dated 19.12.2016 had been passed that the Khasra number of the petitioner(s) herein was lying vacant which could have facilitated an appropriate order to be passed by that Bench itself on that day.

The special leave petition stands disposed of.

Pending application, if any, stands disposed of.

(RASHMI DHYANI PANT)

COURT MASTER

ITEM NO.21

COURT NO.2

(POONAM VAID)

COURT MASTER

SECTION XI

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

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VERSUS AMIT MOHAN PRASAD & ORS.

Respondent(s)

(FOR ADMISSION)

Date : 22-09-2023 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJAY KISHAN KAUL

HON'BLE MR. JUSTICE SUDHANSHU DHULIA

For Petitioner(s) Mr. Abhishek M. Singhvi, Sr. Adv.
Mr. Pradeep Kumar Singh Baghel, Sr. Adv.
Mr. K. K. Sharma, Sr. Adv.
Ms. Lalit Mohini Bhat, Adv.
Mr. Abhimanyu Verma, Adv.
Ms. Soumya Tandon, Adv.
Mr. Anirudh Bhat, Adv.
Mr. Anuj Kapoor, AOR Mr. D. K. Sharma,
Adv.
Mr. Parth Sahrawat, Adv.
Mr. Rakesh Kumar Aggarwal, Adv.

For Respondent(s) Mr. Sanjiv
Sen, Sr. Adv.

Mr. Sameer Jain, Adv.
Mr. Suvigya Awasthy, Adv.
Mr. Love Kumar Gupta, Adv.
Mr. Deepesh Raj, Adv.
Ms. Saumya Pandey, Adv.
Mr. Soayib Qureshi, AOR
Ms. Anjali Singh, Adv.
Mr. Bhavesh Sharma, Adv.
Mr. Pawan Prakash Pathak, Adv.
Mr. Prakash Sharma, Adv.
Ms. Prakrati Raj, Adv.

Mohd. Naved, Adv.

UPON hearing the counsel the Court made the following
O R D E R

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bus stand. Ultimately, the whole thing culminated in proceedings in C.A. No.7237/2011 arising out of SLP (C) No.2687 of 2010 in favour of the petitioner but noticing the larger public interest, instead of directing restoration of the land on which construction was made by New Okhla Industrial Development Authority (NOIDA) and all acquisition proceedings having been quashed, keeping in mind the changed nature of the land, it was observed that it would be extremely harsh on part of the Court to get the entire construction demolished and restore possession of the disputed land of the petitioner. The direction which has been passed is as under:-

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