

(2011) 10 AHC CK 0078

Allahabad High Court

Case No: First Appeal No. - 1101 of 2004

Moradabad
Development Authority
Thr. Its Vice Chairman

APPELLANT

Vs

Shri Arivind Kumar And
Another

RESPONDENT

Date of Decision: Oct. 31, 2011

Acts Referred:

- Land Acquisition Act, 1894 - Section 54

Hon'ble Judges: Pankaj Mithal, J

Bench: Single Bench

Judgement

Hon'ble Pankaj Mithal, J.

This appeal u/s 54 of the Land Acquisition Act is directed against the judgment, order and award of the reference court dated 8.2.99 passed in LAR No. 87 of 96, Arvind Kumar and another Vs. State of U.P. and others, whereby a sum of Rs.7,00,000/-per acre has been awarded for the acquired land along with statutory benefits.

2. The appeal was admitted and in interim order was passed on 2.9.03 directing the appellant to deposit the entire amount so awarded before the court concerned but no withdrawal was permitted without the leave of the court.

3. Against the aforesaid order appellant went in appeal to the Supreme Court and the Supreme Court vide order dated 3.2.04 directed that there will be an interim stay only to the extent that the respondents i.e. claimants will be entitle to withdraw 30% of the amount deposited subject to furnishing security to the satisfaction of the reference court.

4. The above stay order passed by the Supreme Court was confirmed vide order dated 5.11.04.

5. In short the appellant was required to deposit the entire amount decreed and out of the amount so decreed and deposited 30% was permitted to be withdrawn by the claimants-respondents on furnishing adequate security.

6. The grievance of the claimants-respondents is that the appellant has not complied with the above orders. It has not deposited the full amount as awarded and directed. It has further been pleaded that the executing court has refused to proceed with the execution on the ground that there is an interim order by the Supreme Court and the appeal is pending in the High Court.

7. Sri P.K. Singh, learned counsel appearing for the appellant on the other hand submits that in fact the entire amount awarded has already been deposited.

8. The executing court in none of the orders have recorded any specific finding with regard to the compliance of the interim order passed by the High Court or the Supreme Court rather it has been observed that there appears to be non-compliance of the same.

9. In case the appellant has not deposited the entire amount as awarded by the reference court and as directed by the interim order of this court/Supreme Court, the executing court can not refuse to proceed with the execution.

10. In view of the aforesaid facts and circumstances, it is hereby directed that the executing court will consider and calculate the decretal amount under the award and to record a finding as to whether the said amount in full has been deposited or not. In the event it has not been so deposited it will proceed with the execution and bring it to a logical conclusion in accordance with law.

11. Stay Vacation Application No. 18670 of 2009 is disposed of with the above directions.