
UP Awas Evam Vikas Parishad Vs Natthu Singh and others

Civil Revision No. 24 of 2016

Court: Uttarakhand High Court

Date of Decision: Oct. 6, 2018

Acts Referred:

Land Acquisition Act, 1894 & Section 18#Code of Civil Procedure, 1908 & Section 47

Hon'ble Judges: Sudhanshu Dhulia, J

Bench: Single Bench

Advocate: B.S. Adhikari, Anurag Bisaria, Rajesh Pandey

Final Decision: Dismissed

Judgement

Sudhanshu Dhulia, J

1. Pursuant to an award given in favour of one of the parties in land acquisition proceedings, which were conducted under the U.P. Awas Avam

Vikas Parishad Adhinyam, 1985 read with the provisions of the Land Acquisition Act, 1894, the matter went before the learned Additional District

Judge under Section 18 of the Land Acquisition Act, 1894, who had finally passed the order dated 12.04.2006. Subsequently, the matter went for

execution before the executing court. Both the parties have given their own calculation before the executing court. The executing court vide its order

dated 15.06.2015 has rejected the most of the calculation given by the present revisionist and has agreed with the calculation given by the private

respondents.

2. It is again an admitted fact that the solatium which was initially awarded at the rate of 33% was reduced by the High Court to 30%. Barring this

change, there is no change in the award.

3. Thereafter, the executing court has come to the conclusion that on the basis of award a sum of Rs. 3,16,716/- (Rupees Three Lakh Sixteen

Thousand Seven Hundred Sixteen only) is liable to be given to the decree holder by the revisionist.

4. Under Section 47 of the Code of Civil Procedure, 1908, all questions relating to execution of decree have to be seen by the executing court. Section

47 of the Code of Civil Procedure, 1908 reads as under:

“47. Questions to be determined by the Court executing decree. (1) All questions arising between the parties to the suit in which the decree was

passed, or their representatives, and relating to the execution, discharge or satisfaction of the decree, shall be determined by the Court executing the

decree and not by a separate suit.

3. Where a question arises as to whether any person is or is not the representative of a party, such question shall, for the purposes of this section, be

determined by the Court.

[Explanation I. “For the purposes of this section, a plaintiff whose suit has been dismissed and a defendant against whom a suit has been dismissed

are parties to the suit.

Explanation II. (a) For the purposes of this section, a purchaser of property at a sale in execution of a decree shall be deemed to be a party to the

suit in which the decree is passed; and

(b) All questions relating to the delivery of possession of such property to such purchaser or his representative shall be deemed to be questions relating

to the execution, discharge or satisfaction of the decree within the meaning of this section.]

5. From a perusal of the order dated 18.12.2015 read with detail order dated 15.06.2015, I am of the considered view that the executing court has

passed the orders in letter and spirit of Section 47 of the Code of Civil Procedure, 1908.

6. Consequently, no interference is called for by this Court. Civil Revision is therefore liable to be dismissed and is hereby dismissed.

7. Let the amount deposited by the revisionist before this Court be transferred to the executing court, which shall be withdrawn by the private

respondents in accordance with law.