

Smt. Anaro Devi Vs. State of U.P. and Others

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Court : Allahabad

Decided On : Feb-01-1999

Reported in : 1999(2)AWC1062

Judge : M. Katju and;S.L. Saraf, JJ.

Acts : Uttar Pradesh Rural Development (Requisitioning of Land) Act, 1948 -
Sections 7 - Rule 7

Appeal No. : C.M.W.P. No. 15535 of 1996

Appellant : Smt. Anaro Devi

Respondent : State of U.P. and Others

Advocate for Def. : Sabajeet Yadav, Adv. and ;S.C.

Advocate for Pet/Ap. : B.D. Mandhyan and ;Satish Mandhyan, Adv.

Judgement :

M. Katju and S.L. Saraf, JJ.

1. Heard learned counsel for the petitioner and learned standing counsel.
2. The petitioner has challenged the impugned notification dated 23.4.1984, Annexure-3 to the writ petition, by which the land of the petitioner was requisitioned under Section 7 of the U. P. Rural Development (Requisitioning of

Land] Act, 1948.

3. The petitioner claims to be Bhumidhar of plot No. 319, which is recorded in her name in the revenue record. The land in question was requisitioned but thereafter has neither been released in favour of the petitioner nor has it been acquired. It is well-settled that there is distinction between 'acquisition' and 'requisition'. In the case of acquisition of property, the title in the property passes to the person or authority who has acquired it, whereas in the case of requisition, only possession and not the title passes, and that too for a limited period.

4. A perusal of the statement of objects of the United Provinces Rural Development (Requisitioning of Land] Act, 1948 says that the Act was made because in the eastern districts of the State tanks, which are the main source of irrigation, had become silted up, and hence, the State Government wanted to deepen the same for irrigation purposes. Requisition was also necessary for making the compost pits and for other similar objects.

5. Thus, the objects themselves reveal that the property was only to be requisitioned and not acquired. Moreover, Rule 7 of the Rules made under the aforesaid Act states that the land which is requisitioned, shall be treated as of lease on payment of half yearly or annual rent. This also indicates that the title of the land did not pass when the property was requisitioned.

6. It has been held by the Division Bench of this Court in *Dropadi Devi v. State*, 1988 ALJ 1090 (DB), in paragraph 14 that under the guise of the requisition possession of the property cannot be detained by the Government for an indefinite period of time. In this case, the requisition order was passed as far back as in 1984.

7. Following the aforesaid decision, this petition is allowed. The authorities are directed to hand back the possession of the property in dispute within six months of production of a certified copy of this order before the authority concerned or acquire the property under the Land Acquisition Act within the same period after payment of compensation to the petitioner under the Act.

