

Dhanpal Singh and ors. Vs. Executive Engineer, Nirman Khand V, U.P. Avas Evam Vikas Parishad and ors.

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Court : Allahabad

Decided On : Jul-24-2002

Reported in : 2002(4)AWC3290

Judge : Sudhir Narain and ;O.P. Srivastava, JJ.

Acts : Uttar Pradesh Avas Evam Vikas Parishad Adhiniyam, 1965 - Sections 28 and 32; [Land Acquisition Act, 1894](#) - Sections 4 and 6; Registration Act

Appeal No. : C.M.W.P. No. 28966 of 2002

Appellant : Dhanpal Singh and ors.

Respondent : Executive Engineer, Nirman Khand V, U.P. Avas Evam Vikas Parishad and ors.

Advocate for Def. : S.C.

Advocate for Pet/Ap. : Rahul Sripat, Adv.

Disposition : Petition partly allowed

Judgement :

Sudhir Narain and O. P. Srivastava, JJ.

1. The petitioners seek to quash the order dated 11.6.2002 (Annexure-3 to the writ petition) whereby the Executive Engineer, Construction Division V of the U. P. Avas Evam Vikas Parishad, Meerut (respondent No. 1) has issued a direction to the Sub-Registrar (Registration), Meerut (respondent No. 4) not to register any sale deed or agreement to sell in respect of the land which has been notified for acquisition under Section 28 ' of the U. P. Avas Evam Vikas Parishad Adhiniyam, 1965 (in short 'the Adhiniyam') proposing to acquire the land mentioned in the said notification.

2. The contention of the petitioners is that the Executive Engineer, respondent No. 1, has no jurisdiction to issue any direction to the Sub-Registrar (Registration), respondent No. 4, directing him not to register any sale deed or agreement in respect of the land which is covered by notification under Section 28 of the Adhiniyam.

3. Shri Pankaj Mithal, learned counsel for the contesting respondents, contended that the notice under Section 28 of the Adhiniyam is in pari materia with Section 4 of the Land Acquisition Act and if any notification is issued proposing to acquire certain land and any person purchases the property or enters into an agreement to purchase the property, his right is created on the land and that would create complications.

4. The notification under Section 28 of the Adhiniyam is in pari-materia with Section 4 of the Land Acquisition Act. Section 32 of the Adhiniyam is in pari materia with Section 6 of the Land Acquisition Act vesting the property sought to be acquired in the acquiring body.

5. Admittedly, respondent No. 2 has yet not issued any notification under Section 32 of the Adhiniyam. If any person has paid any amount to the owner of the land either in pursuance of agreement to sell or for sale of the property but if he does not get such agreement or sale deed executed and registered, he will not be able even to get the amount of compensation as the award will not be made in his favour. The acquiring body has no power to issue any direction to the Sub-Registrar (Registration) not to register any sale deed or any document in respect of property which is covered by a notification under Section 4 of the Land

Acquisition Act. There is no provision under the Registration Act which restricts the Sub-Registrar (Registration) from registering any document in respect of any land or property mentioned in the notification issued under Section 4 of the Land Acquisition Act.

6. The Sub-Registrar (Registration), however, can ask the executant of the document to insert a clause in the sale deed or any other deed in respect of such land before registration that a person purchasing the property will be subject to the acquisition proceedings commenced under the provisions of any Act. This will safeguard the interest of acquiring body. The purchaser will be bound by the acquisition proceedings.

7. In view of the above, the writ petition is partly allowed. The order of respondent No. 1 dated 11.6.2002, is hereby quashed subject to the condition that the Sub-Registrar (Registration) shall register the documents only when a clause is added in the sale deed or in any other document in respect of the land sought to be acquired that the purchaser will be bound by the acquisition proceedings.

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