

Court No. - 10

Case :- WRIT - C No. - 30957 of 2018

Petitioner :- Lokendra Singh Chauhan And 2 Others

Respondent :- State Of U.P. And 4 Others

Counsel for Petitioner :- Aklank Kumar Jain, Bhanu Pratap Dhakray

Counsel for Respondent :- C.S.C., Kaushalendra Nath Singh

Hon'ble Vikram Nath, J.

Hon'ble Daya Shankar Tripathi, J.

Heard learned counsel for the petitioners, Ms. Shubhra Singh, learned Standing Counsel for the State-respondents and Shri Kaushalendra Nath Singh, learned counsel for the respondent Nos. 3 and 4.

Plot No. 836 is the plot belonging to the petitioners. The Noida Authority under mutual consent agreed to take the said plot from the petitioners. It is also the case of the petitioners that in 2016 possession has already been taken by the Noida Authority.

The grievance of the petitioners is that sale deed has not been executed for the reason that the Noida Authority is not making the payment of the sale consideration to the petitioners as mutually agreed.

Shri Kaushalendra Nath Singh upon instructions states that at some point of time plot No. 836 had a recorded area of 0.6920 hectares, but subsequently in the Revenue Records and in the final consolidation records, that is, in the CH-Form 45 the area of the plot No.836 was correctly recorded as 0.6320 hectares and it is only this area of which possession has been taken by the Noida Authority.

He further submits upon instructions that the petitioners have been raising demand for sale consideration at the rate determined and mutually agreed for the area of 0.6920 hectares, whereas the Noida Authority has been requesting that the petitioners may file their respective affidavits, if they are ready and willing to accept the compensation at the agreed rate for an area of 0.6320 hectares.

In this respect Shri Singh has drawn our attention to request dated 25.5.2018 written by the Tehsildar, Noida to the three petitioners vide letter No. Noida/ Bhulekh/ 2018/ 81. He submits that in case the petitioners give their No-objection and also an affidavit to the aforesaid effect, immediately the sale consideration would be paid to them and the sale deed may be executed.

On the other hand Shri Bhanu Pratap Dhakray, referring to Annexure No.14, which is a letter dated 20.4.2017 addressed to the Tehsildar, Survey, District Gautam Buddh Nagar, submits that the petitioners have already given their consent that the area recorded in the CH Form 45, that is, 0.6320 hectares, may be taken as the area to be sold and accordingly sale consideration be determined and that the respective area from the share of the three petitioners in equal proportion will be reduced. Further, Shri Dhakray has referred to another letter dated 26.9.2017 addressed to the Chief Executive Officer, Noida wherein similar request has been made that they may be paid sale consideration for land measuring 0.6320 hectares.

We also find from the instructions that in response to the communication dated 25.5.2018 there is a letter dated 18.6.2018 written by the three petitioners to the Tehsildar, Noida that they are ready to accept the sale consideration for the reduced area as recorded in the CH Form 45, that is 0.6320 hectares.

It appears that the petitioners have not filed the affidavit as requested by the Tehsildar. If that be so, we accordingly dispose off this petition with a direction to the petitioners to submit the affidavits, as required by the communication dated 25.5.2018, within three weeks from today, whereupon the Noida Authority will make the payment as per the mutually agreed rate and accordingly the petitioners may execute the sale deed.

This exercise may be undertaken within a period of one month from the date the affidavits are filed by the petitioners.

Order Date :- 14.9.2018

Arnima

(Daya Shankar Tripathi, J.) (Vikram Nath, J.)