



2026:AHC:80259

HIGH COURT OF JUDICATURE AT ALLAHABAD

FIRST APPEAL No. - 387 of 2026

State Of Up And 2 Others

.....Appellant(s)

Versus

Iftekhhar Ahmad And Another

.....Respondent(s)

Counsel for Appellant(s)

: Amit Manohar

Counsel for Respondent(s)

: Indrakesh Kumar Sharma

AFR

Court No. - 39

HON'BLE SANDEEP JAIN, J.

1. The instant appeal has been filed by the State under Section 74 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 against the impugned judgment and award dated 25.03.2023 passed by the Presiding Officer, Land Acquisition, Rehabilitation and Resettlement Authority, Basti in Land Acquisition Case No.1 of 2021 (Iftekhhar Ahmad and another vs. State of U.P. and others), whereby the Reference Court has partly allowed the reference and has set aside the award of the Collector dated 13.11.2019 and remanded the matter to the Collector for determining the compensation in accordance with the observations made in the judgment.

2. Learned counsel for the appellant-State submitted that in the instant case, land for construction of the Maina Rajwaha in village Tenua Grunt, Pargana Bansi West, Tehsil Itwa, District Siddharth Nagar was acquired through notification under Section 4(1) of the Land Acquisition Act 1894 dated 27.01.2010, declaration under Section 6 was made on 09.08.2010 and the possession of the land was taken under urgency clause under Section 17 of the above Act on 28.09.2010 and the award of the Collector was made on 13.11.2019, whereby compensation of Rs.1,14,39,264/- was awarded to the claimants on the basis of exemplar on record.

3. Learned counsel further submitted that the award of the Collector was challenged by the land owners for enhancement of compensation by filing reference, which has been allowed by the impugned judgment by the Reference Court on the ground that the Collector should have determined

compensation under the Act of 2013, which came into effect from 01.01.2014. On this ground, the award of the Collector dated 13.11.2019 was set aside and the matter was remanded to the Collector for determination of compensation afresh in accordance with the observations made by the Reference Court.

4. Learned counsel further submitted that in no circumstances, the Reference Court could have set aside the award of the Collector and remanded the matter to the Collector for determining the compensation afresh. It was further submitted that either the Collector could have affirmed the award or enhanced the compensation payable to the land owners, but in no circumstances the award of the Collector could have been set aside. In support of his submission, learned counsel has relied upon the judgment of this Court passed in *First Appeal No.670 of 1992 (State of UP and others vs. Rahmullah)* decided on 23.07.2013.

5. Learned counsel for the landlord-respondent also very fairly accepts that the Reference Court has exceeded its jurisdiction in setting aside the award of the Collector and remanding the matter to him for determining the compensation afresh. Learned counsel further submitted that the Reference Court should have itself determined the compensation as per the provisions of the Act of 2013, if it was applicable in the facts and circumstances of the case.

6. I have heard Sri Amit Manohar, learned counsel for the appellants and Sri Anirudh Singh holding brief of Sri Indrakesh Kumar Sharma and perused the impugned judgment and documents submitted with the appeal. Appeal is admitted.

7. From the above facts, it is evident that the Reference Court has set aside the award of the Collector dated 13.11.2019 on the ground that the Collector has determined the compensation in accordance with the provisions of Land Acquisition Act, 1894, whereas the compensation should have been determined under the Act of 2013, which came into effect from 01.01.2014 and on this basis the Reference Court has set aside the award of the Collector and remanded the matter to the Collector for deciding the compensation afresh.

8. The Land Acquisition Act, 1894, in a complete Code in itself,

containing provisions as to how the land is to be acquired and how the award is to be made by the Collector as well as how the award of the Collector can be challenged and what are the factors, which are to be considered for determining the compensation. The Land Acquisition Act only mentions that if the land owner is not satisfied with the amount of compensation awarded by the Collector, then it can get the matter referred by the Collector to the Reference Court, which will then determine the compensation in accordance with law. The Act does not vest the Reference Court with the power to set aside the award of the Collector and remand back the matter for determining the compensation afresh. It is apparent that the power of remand is only exercised by an appellate court, but it is well settled that the Reference Court is not an appellate court and is only an original court for determining the compensation in land acquisition cases. In view of this, the power of remand could not have been exercised by the Reference Court.

9. This Court in the case of *Rahmullah* (supra) has precisely dealt this controversy and after relying upon the judgment of the Apex Court in the case of *Chimmanlal Hargovinddas vs. SLAO, Puna and another, (1988) 3 SCC 751*, has held that the reference under Section 18 of the Act is not an appeal against the award of the SLAO. It is in the nature of original proceedings, wherein the claimant is in the position of a plaintiff, who is supposed to establish that the price offered for his acquired land is inadequate by producing material evidence before the Reference Court. It was specifically held by this Court that the Reference Court acts as a court of original jurisdiction, which does not exercise appellate powers while deciding references under Section 18 of the Land Acquisition Act, as such, it is denuded of any power to remand the matter.

10. Similarly, the High Court of Andhra Pradesh in the case of *Special Tahsildar, Land Acquisition Railways, Vishakhapatnam vs. Sri Varabalakshmi Narasimhaswamivaru the deity of Simachalam, represented by the hereditary trustee the Rajah of Vizianagaram 1973 SCC OnLine AP 44*, held as under:-

"I have no doubt that a court to which a reference is made under section 18 of the Land Acquisition Act has no power to remand the matter to the Land Acquisition Officer. The jurisdiction given to the court under section 18 of the Land Acquisition Act and the subsequent provisions is a special

jurisdiction and the power of remand, if any, must be found within the statute. There is no such power to be discovered in any of the provisions. Nor is there any inherent power of remand such as an Appellate Court might have since the Court functioning under the Land Acquisition Act does not function as an appellate Court. If authority is necessary for the proposition that a Court to which, a reference is made under section 18 of the Land Acquisition Act has no power of remand, it is to be found in the case of Revenue Divisional Officer v. Villa Raja [AIR 1944 Mad 539.] In that case Wadsworth, J., held that the Act did not empower the Court to remand the case to the Collector for fresh enquiry and for a further award.

In the present case the reference was properly made. All that the lower Court said was that compensation for the land should have been determined first and then-apportioned between the melwaram-dar and kudiwaramdar instead of compensation for the melwaram and kudiwaram interests being separately determined as was supposed to have been done by the Land Acquisition Officer. If the lower Court thought that the Land Acquisition Officer went wrong in determining the value of the melwaram and kudiwaram interests separately then it was upto the lower Court to value the land as such and apportion the compensation towards the two interests. The learned Subordinate Judge had no jurisdiction to remand the case for that purpose."

(emphasis supplied)

11. The High Court of Madhya Pradesh in the case of **Gabbar Singh and Ors. vs. Collector, Gwalior and Ors.** 2007 SCC OnLine MP 55, held as under:-

"10. After hearing parties and perusing the award I find that the Land Acquisition Officer has passed the award in respect of the land only, so that the claimants can get compensation without any delay. He has specifically mentioned that he is not passing award in respect of crops and trees standing on the land, as it will delay the matter of passing the award in respect of the land and therefore he reserved his rights to pass supplementary award in respect of the trees and the crops standing on the land.

11. Even otherwise if the District Court come to the conclusion that it was incumbent on the Land Acquisition Officer to pass award in respect of the trees and crops then he could have to be passed award for the trees and crops standing on the land as he has already recorded evidence on this point.

Therefore, he has committed error in remanding the matter. Thus, I find that the District Court has committed error in treating the award as interim award.

12. Moreover, as per the provisions of law, discussed above the District Court has no power of remand while hearing the application under section 18 of the Land Acquisition Act because it is a reference Court and not an appellate Court.”

(emphasis supplied)

12. Similarly, in the Act of 2013, the Reference Court can only affirm the award of the Collector or enhance the compensation awarded by it, but it cannot set aside the award of the Collector and remand the matter to the Collector for deciding it afresh.

13. It is apparent that the Reference Court has acted beyond its jurisdiction by setting aside the award of the Collector and remanding the matter to it for deciding it afresh, which is contrary to the provisions of the Land Acquisition Act, 1894 as well as the Act of 2013. In no circumstances whatsoever, the Reference Court could have passed the impugned order, which is unsustainable in law.

14. **Accordingly, the appeal is allowed.** Consequently, the impugned judgment and award dated 25.03.2023 is set aside and L.A.R. No.1 of 2021 stands restored on its original number before the Reference Court.

15. The Reference Court is directed to decide the reference on merits in accordance with law after hearing the parties within a period of six months from the date of production of certified copy of this order, without affording any unnecessary adjournments to either of the parties.

(Sandeep Jain,J.)

April 10, 2026

Jitendra