

A.F.R.

Court No. - 6

Case :- TRANSFER APPLICATION (CIVIL) No. - 643 of 2022

Applicant :- Smt. Gazala Begum

Opposite Party :- Mohd. Musarraf and others

Counsel for Applicant :- Anil Kumar Gupta, Santosh Kumar Rai

Hon'ble J.J. Munir,J.

Heard learned Counsel for the applicant in support of the application.

2. This transfer application has been moved, seeking transfer of Case No. 30 of 2019, Mohd. Musarraf v. State of U.P. and others, from the Land Acquisition, Rehabilitation and Resettlement Authority, Allahabad¹ to any other Court of competent jurisdiction.

3. The ground for transfer is that there is no incumbent Presiding Officer functioning as the LARRA. This Court required the Registrar General to submit a report in the matter after verification. It transpires that the fact is correct that there is no Presiding Officer incumbent to discharge the functions of the LARRA for the time being. This Court, however, notices that the LARRA is an "Authority" established by the appropriate Government under Section 51 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013² for the purpose of providing speedy disposal of disputes relating to land acquisition, compensation, rehabilitation and resettlement. The said Authority, which can be one or more, is to be established by notification. The appropriate Government is defined under Section 3(e)(i) of the Act of 2013 to mean the State Government in relation to acquisition of land situate within the territory of the State. Since the acquisition here relates to a land situate in the State of Uttar Pradesh, the LARRA at Allahabad or elsewhere would be established by the Government of U.P. through a notification. The territorial jurisdiction

1 "LARRA" for short

2 "the Act of 2013" for short

of the LARRA, wherever established, is also to be specified by the State Government under sub-Section (2) of Section 50 of the Act of 2013. Section 53 spells out the qualifications for the Presiding Officer of the LARRA, which reads :

53. Qualifications for appointment as Presiding Officer.-(1) A person shall not be qualified for appointment as the Presiding Officer of an Authority unless,-

(a) he is or has been a District Judge; or

(b) he is a qualified legal practitioner for not less than seven years.

(2) A Presiding Officer shall be appointed by the appropriate Government in consultation with the Chief Justice of a High Court in whose jurisdiction the Authority is proposed to be established.

4. The Presiding Officer of the LARRA is an appointee of the State Government. In the event he is a serving District Judge, the appointment would be on deputation, of course, with this Court's permission on the administrative side. In all other contingencies contemplated by Clauses (a) and (b) of sub-Section (1) of Section 53, the appointment of the Presiding Officer of the LARRA is to be made by the State on such terms and conditions as the law prescribes. Section 54 of the Act of 2013 spells out some of these conditions.

5. The trappings and the essential character of the LARRA show it to be not an established Civil Court, but an adjudicating authority established by a notification by the State Government for the purpose indicated in Section 51 of the Act of 2013. The Presiding Officer of the said Authority is also to be appointed by the State Government. The Presiding Officer in one contingency may be a serving District Judge, who could be appointed on deputation with this Court's permission. Else, the Presiding Officer recruited from any other source would be appointed by the State Government, of course, in consultation with the Chief Justice of the High Court, in whose jurisdiction, the Authority is proposed to be established. By no means, therefore, the LARRA is a

Court subordinate to this Court within the meaning of Section 24(1)(a) of the Code of Civil Procedure, 1908³. The LARRA, described under the Act of 2013 as an “Authority”, may be regarded as a Tribunal subordinate to this Court for the purpose of superintendence under Article 227 of the Constitution, but not a Court subordinate to this Court under the Code.

6. In this view of the matter, this transfer application is not maintainable. It is, accordingly, **rejected**.

7. This order will, however, not prevent the applicant from seeking such remedies as may be advised.

Order Date :- November 16, 2022

I. Batabyal

(J.J. Munir, J.)

3 “Code” for short