

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - C No. - 14113 of 2017 (O & M)

Decided on May 31, 2022

Runwell India Pvt. Ltd.

...Petitioner

Through:-

Mr. V.M. Zaidi, Senior Advocate with Mr. M.J. Akhtar, Mr. Pankaj Dubey, Mr. Manu Khare, Mr. Rishu Mishra, Mr. Sanjay Kumar Mishra, Mr. Shiv Kant Mishra, Mr. Saurabh Basu, Mr. Manoj Pandey, Mr. Ganga Dhar Shukla, Mr. Satendra Singh, Mr. Dharmendra Pandey, Mohd. Umar Khan, Mr. Awadesh Prasad, Mr. Ved Prakash Pandey, Mr. Puneet Verma, Mr. Kamal Singh Yadav, Mr. Ravindra Narayan Singh, Mr. Sunil Kumar Rai, Mr. Uma Nath Pandey, Mr. Durga Prasad Tiwari, Mr. Anshul Kumar Singhal, Mr. Kamlesh Kumar Mishra, Mr. Sunil Nagar, Mr. Nawal Kishore Mishra, Mr. Gautam Kumar, Mr. Harendra Singh, Mr. Navin Kumar, Mr. Ashok Kumar Singh, Mr. Anil Kumar Dubey, Mr. Raj Narayan Tiwari, Mr. Ram Sajiwan Mishra, Mr. Amit Kumar, Mr. Ram Raksha Yadav, Mr. Awdhesh Kumar Mishra, Mr. Swapnil Kumar, Mr. Vijay Shyam Bhaskar, Mr. Ratnesh Kumar Srivastava, Mr. Sanchit Nidhi, Ms. Nandini Mishra, Mr. Prem Sagar Dubey, Mr. Haseen Ahmad, Mr. Shailendra Kumar Mishra, Mr. Vidya Prakash Singh, Mr. Raj Kumar Kesari, Mr. Rohit Nandan Pandey, Mr. Tej Bahadur Rai, Ms. Hemlata Srivastava, Mr. Piyush Shukla, Mr. Hira Lal Singh (Kushwaha), Mr. Sharda Prasad Pandey, Mr. Sanjay Kumar Jaiswal, Mr. Prashant Kumar Tripathi, Mr. Chandra Bhan Dubey, Mohd. Arif, Advocates.

Counsel for the Petitioners.

Vs.

State of U.P. and others

...Respondents

Through:-

Mr. Vineet Pandey, Chief Standing Counsel with Mr. A.K. Goel, Mr. Suresh Singh, Mr. Ramanand Pandey, Mr. G.C Saxena, Additional Chief Standing Counsels, Ms. Meenakshi Singh, Standing Counsel, Mr. Ankit Gaur, Mr. Jagdish Prakash Pathak and Mr. Ajay Prakash Paul, State Law Officers, for the State – respondents.

Mr. Ramendra Pratap Singh, Mr. Bhanu Bhushan Jauhari & Ms. Anjali Upadhyay appearing for the respondents - Greater Noida and

Mr. Shivam Yadav and Mr. Kaushlendra Nath Singh, appearing for the respondents – Noida.

Counsel for the Respondents.

**CORAM: HON'BLE RAJESH BINDAL, CHIEF JUSTICE
HON'BLE PIYUSH AGRAWAL, JUDGE**

ORDER

PIYUSH AGRAWAL, J.

1. The following writ petitions filed by different land owners are being decided by this common order:

GREATER NOIDA:

WRIT - C No. 21825 of 2015,

WRIT - C Nos. - 14116, 36842, 36844, 39385, 40061 and 40153 of 2017;

WRIT - C Nos. 14568, 36494 and 37044 of 2018;

WRIT - C Nos. 493, 852, 6205, 8242, 13121, 13248, 13258, 13662, 13677, 13682, 13924, 14505, 14820, 15076, 15077, 15083, 21197, 23221, 23234, 23240, 23329, 23362, 23579, 23853, 23883, 24141, 24143, 24147, 24501, 24654, 25215, 25496, 25533, 25641, 25645, 25668, 25839, 25859, 26233,

26307, 26471, 26674, 26724, 26727, 27076, 27079, 27081, 27296, 27336, 27337, 27346, 27349, 27378, 27390, 27394, 27500, 27514, 27524, 27540, 27552, 27560, 27803, 27882, 27883, 27962, 27976, 27996, 28009, 28058, 28069, 28094, 28100, 28235, 28249, 28260, 28296, 28297, 28391, 28397, 28447, 28480, 28508, 28510, 28547, 28552, 28632, 28644, 28648, 28649, 28663, 28675, 28696, 28699, 28701, 28702, 28704, 28705, 28708, 28711, 28714, 28716, 28717, 28770, 28804, 28840, 28852, 28886, 28893, 28946, 29024, 29032, 29099, 29105, 29114, 29278, 29280, 29284, 29289, 29293, 29313, 29323, 29324, 29342, 29354, 29587, 29591, 29637, 29665, 29852, 29863, 29923, 29943, 29950, 29951, 29956, 29959, 29983, 29996, 30032, 30034, 30035, 30039, 30051, 30116, 30128, 30143, 30159, 30179, 30183, 30194, 30251, 30262, 30279, 30287, 30294, 30314, 30418, 30490, 30657, 30659, 30666, 30673, 30674, 30675, 30679, 30691, 30700, 30702, 30713, 30716, 30723, 30899, 30937, 30951, 30962, 31024, 31039, 31203, 31296, 31312, 31313, 31329, 31338, 31350, 31357, 31372, 31383, 31385, 31405, 31407, 31416, 31437, 31478, 31484, 31489, 31491, 31501, 31759, 31769, 31783, 31963, 31988, 31990, 32005, 32012, 32195, 32272, 32289, 32345, 32356, 32404, 32408, 32437, 32456, 32502, 32507, 32520, 32555, 32559, 32587, 32593, 32595, 32784, 32942, 33009, 33014, 33022, 33026, 33264, 33322, 33428, 33449, 33469, 33891, 34069, 34364, 34491, 34494, 34501, 34527, 34554, 34585, 34667, 34716, 34724, 34739, 34773, 34774, 34926, 36749, 36760, 36990, 36991, 17526, 24570, 34575 and 30139 of 2019;

WRIT - C Nos. 2184, 2221, 2290, 2298, 2947, 3047, 3055, 3122, 3857, 3865, 3867, 3902, 3910, 3915, 3930, 3934, 4192, 4548, 4893, 6043 and 6092 of 2020 and

WRIT - C Nos. 947, 28235, 30834, 30840, 30888, 30973, 30988, 1347, 26393, 33067, 33192, 33237, 33333, 34220, 34486 and 34502 of 2021.

NOIDA:

Writ C No.-1532 of 2017;

Writ C Nos. 15086, 16258, 16263, 17560, 17563, 17566, 17584, 17739,

17753 , 17778, 17800, 17876, 17877, 18107, 18367, 19018, 19022, 19056 , 22795, 23154, 23157, 23160, 24130, 25877, 26034, 26381, 26440, 26449, 26482, 26498, 26731, 27144, 27290, 27556, 27818, 27827, 27880, 27885, 27890, 28047, 28099, 28101, 28102, 28171, 28191, 28208, 28386, 28462, 28472, 28477, 28700, 28707, 28709, 28713, 28715, 28790, 28796, 29063, 29295, 29317, 29337, 29560, 29564, 29632, 29652, 30216, 30306, 31130, 31193, 31332, 31345, 31392, 31411, 31438, 31454, 31462, 31472, 31477, 31497, 31785, 31935, 31958, 31997, 32001 of 2019, 32006, 32265, 32399 , 32513, 32724, 33000, 33311, 33444, 33475, 33795, 33804, 34539, 34543 , 34550 , 34562, 34694, 34729, 34931, 34936, 34939, 34956, 34961, 34998, 35020 and 4840 of 2019;

Writ C Nos.-3043, 3845, 3846, 3853, 4209, 4217, 4226 and 4233 of 2020 and

Writ C No. 26108 of 2021.

2. The principal relief claimed in all the writ petitions is that respondents be directed to allot 10% developed land in *lieu* of their land acquired by the State Government for Noida Development Authority/Greater Noida Development Authority, District - Gautam Buddha Nagar.

FACTUAL MATRIX:

3. Civil Misc. Writ Petition No. 14113 of 2017 (**Runwell India Pvt. Ltd. Vs. State of U.P. and others**) is treated as the leading writ petition.

4. From the record, it transpires that petitioner - Runwell India Pvt. Ltd. is a company duly incorporated under the Companies Act (hereinafter referred to as "**Company**").

5. The Company purchased Survey Plot No. 444, area 0-17-0 *bighas* situate in Village – Patwari, Pargana & Tehsil - Dadri, District - Gautam Buddha Nagar, vide registered sale deed dated 31.3.1987.

6. The State Government issued notification dated 12.3.2008 under Section 4(1) read with Section 17(4) of the Land Acquisition Act, 1894 (for short, '**the 1894 Act**'), whereby the State Government disclosed its intention for acquiring large tract of land (589.188 hectares), situated in Village - Patwari, Pargana & Tehsil-Dadri, District-Gautam Buddha Nagar for planned industrial development.

7. The notification under Section 4(1) read with Section 17(4) of the 1894 Act was followed by the notification dated 30.06.2008 published under Section 6(1) read with Section 17(1) of the 1894 Act. As per the aforesaid notification, an area of 589.188 hectares situated in Village - Patwari, Pargana & Tehsil-Dadri, District-Gautam Buddha Nagar was notified.

8. Since the urgency clause was invoked, therefore, by virtue of the provisions contained under Section 17(3A) of the 1894 Act, the State Government was duty-bound to pay 80% of the compensation amount before taking possession of the land of the petitioners. According to petitioners, the compensation amount was paid on 08.04.2010.

9. The notifications under Section 4(1) read with Section 17(4) dated 12.03.2008 and Section 6(1) read with Section 17(1) of 1894 Act dated 30.06.2008 in respect of Village - Patwari were challenged before this Court by means of Civil Misc. Writ Petition No. 17068 of 2009 **Har Karan Singh Vs. State of U.P & others**. The aforesaid writ petition, along with other connected writ petitions, was allowed vide judgement dated 19.07.2011 and the impugned notifications were quashed.

10. A Division Bench of this Court, dealing with the same notifications dated 12.03.2008 and 30.06.2008 issued under Sections 4 & 6 of the 1894 Act in Writ Petition No. 37443 of 2011 (**Gajraj and others Vs. State of U.P. and others**), along with other writ petitions of similar nature, doubted the correctness of the judgement rendered in **Har Karan Singh's case (supra)**. Vide order dated 26.07.2011 passed in aforesaid case, reference was made to Hon'ble the Chief Justice for constitution of a Larger

Bench. The same reads as under:

“Against this background, prima facie we are of the view that a larger Bench is required to be formed for the purpose of hearing these matter not only in respect of the village in question but also for all the acquisition matters in respect of the New Okhla Industrial Development Authority and greater Noida Industrial Development Authority for the ends of justice, to reduce the fume and to avoid the multiplicity of the proceedings”

11. The Full Bench decided the matters referred to it vide judgement dated 21.10.2011 reported as [2011 (11) ADJ 1 (FB)] **Gajraj and others Vs. State of U.P. and others**, by issuing following directions vide paragraph 482 of the judgement:

“482. In view of the foregoing conclusions we order as follows:

1. The Writ Petition No. 45933 of 2011, Writ Petition No. 47545 of 2011 relating to village Nithari, Writ Petition No. 47522 of 2011 relating to village Sadarpur, Writ Petition No. 45196 of 2011, Writ Petition No. 45208 of 2011, Writ Petition No. 45211 of 2011, Writ Petition No. 45213 of 2011, Writ Petition No. 45216 of 2011, Writ Petition No. 45223 of 2011, Writ Petition No. 45224 of 2011, Writ Petition No. 45226 of 2011, Writ Petition No. 45229 of 2011, Writ Petition No. 45230 of 2011, Writ Petition No. 45235 of 2011, Writ Petition No. 45238 of 2011, Writ Petition No. 45283 of 2011 relating to village Khoda, Writ Petition No. 46764 of 2011, Writ Petition No. 46785 of 2011 relating to village Sultanpur, Writ Petition No. 46407 of 2011 relating to village Chaura Sadatpur and Writ Petition No. 46470 of 2011 relating to village Alaverdipur which have been filed with inordinate

delay and laches are dismissed.

2. The writ petitions of Group 40 (Village Devla) being Writ Petition No. 31126 of 2011, Writ Petition No. 59131 of 2009, Writ Petition No. 22800 of 2010, Writ Petition No. 37118 of 2011, Writ Petition No. 42812 of 2009, Writ Petition No. 50417 of 2009, Writ Petition No. 54424 of 2009, Writ Petition No. 54652 of 2009, Writ Petition No. 55650 of 2009, Writ Petition No. 57032 of 2009, Writ Petition No. 58318 of 2009, Writ Petition No. 22798 of 2010, Writ Petition No. 37784 of 2010, Writ Petition No. 37787 of 2010, Writ Petition No. 31124 of 2011, Writ Petition No. 31125 of 2011, Writ Petition No. 32234 of 2011, Writ Petition No. 32987 of 2011, Writ Petition No. 35648 of 2011, Writ Petition No. 38059 of 2011, Writ Petition No. 41339 of 2011, Writ Petition No. 47427 of 2011 and Writ Petition No. 47412 of 2011 are allowed and the notifications dated 26.5.2009 and 22.6.2009 and all consequential actions are quashed. The petitioners shall be entitled for restoration of their land subject to deposit of compensation which they had received under agreement/award before the authority/Collector.

2(ii). Writ petition No. 17725 of 2010 Omveer and others Vs. State of U.P. (Group 38) relating to village Yusufpur Chak Sahberi is allowed. Notifications dated 10.4.2006 and 6.9.2007 and all consequential actions are quashed. The petitioners shall be entitled for restoration of their land subject to return of compensation received by them under agreement/award to the Collector.

2(iii) Writ Petition No.47486 of 2011 (Rajee and others vs. State of U.P. and others) of

Group-42 relating to village Asdullapur is allowed. The notification dated 27.1.2010 and 4.2.2010 as well as all subsequent proceedings are quashed. The petitioners shall be entitled to restoration of their land.

3. All other writ petitions except as mentioned above at (1) and (2) are disposed of with following directions:

(a) The petitioners shall be entitled for payment of additional compensation to the extent of same ratio (i.e. 64.70%) as paid for village Patwari in addition to the compensation received by them under 1997 Rules/award which payment shall be ensured by the Authority at an early date. It may be open for Authority to take a decision as to what proportion of additional compensation be asked to be paid by allottees. Those petitioners who have not yet been paid compensation may be paid the compensation as well as additional compensation as ordered above. The payment of additional compensation shall be without any prejudice to rights of land owners under section 18 of the Act, if any.

(b) All the petitioners shall be entitled for allotment of developed Abadi plot to the extent of 10% of their acquired land subject to maximum of 2500 square meters. We however, leave it open to the Authority in cases where allotment of abadi plot to the extent of 6% or 8% have already been made either to make allotment of the balance of the area or may compensate the land owners by payment of the amount equivalent to balance area as per average rate of allotment made of

developed residential plots.

4. The Authority may also take a decision as to whether benefit of additional compensation and allotment of abadi plot to the extent of 10% be also given to;

(a) those land holders whose earlier writ petition challenging the notifications have been dismissed upholding the notifications; and

(b) those land holders who have not come to the Court, relating to the notifications which are subject matter of challenge in writ petitions mentioned at direction No.3.

5. The Greater NOIDA and its allottees are directed not to carry on development and not to implement the Master Plan 2021 till the observations and directions of the National Capital Regional Planning Board are incorporated in Master Plan 2021 to the satisfaction of the National Capital Regional Planning Board. We make it clear that this direction shall not be applicable in those cases where the development is being carried on in accordance with the earlier Master Plan of the Greater NOIDA duly approved by the National Capital Regional Planning Board.

6. We direct the Chief Secretary of the State to appoint officers not below the level of Principal Secretary (except the officers of Industrial Development Department who have dealt with the relevant files) to conduct a thorough inquiry regarding the acts of Greater Noida (a) in proceeding to implement Master Plan 2021 without approval of N.C.R.P. Board, (b) decisions taken to change the land use, (c) allotment made to the builders and (d) indiscriminate proposals for acquisition of land, and thereafter the State Government shall take appropriate action in the matter. ”

12. After the aforesaid Full Bench judgement of this Court, the Greater Noida Industrial Development Authority, in order to give effect to the directions issued by the Full Bench of this Court in **Gajraj's case (supra)**, convened its meeting and passed the resolution dated 02.11.2011.

13. Subsequently, the Greater Noida Industrial Development Authority, in order to implement the directions given by the Full Bench in respect of such land owners, who had already executed sale deeds in favour of Greater Noida Authority in respect of the acquired land, constituted a Committee, which submitted its report on 18.11.2011.

14. Thereafter, the Greater Noida Industrial Development Authority, in its 91st meeting, vide resolution dated 25.11.2011, decided to accord benefit of the Full Bench judgement in **Gajraj's case (supra)** to the land owners whose lands were acquired as well as purchased by way of sale deeds.

15. While the aforesaid exercise was undertaken by Greater Noida Authority, the respondent no. 3, in the leading writ petition, i.e., Civil Misc. Writ Petition No.37443 of 2011 (**Gajraj and others Vs. State of U.P. and others**), filed a review petition seeking review of the judgement dated 21.10.2011 passed by the Full Bench. The same was registered as Review Application No. 3968519 of 2011 and was dismissed vide order dated 14.05.2012.

16. Thereafter, a correction application was filed in Civil Misc. Writ Petition No. 43392 of 2011 (**Bhushan Singh and others Vs. State of U.P. and others**) seeking correction in the judgement dated 21.10.2011 passed by the Full Bench. The aforesaid correction application came to be disposed of finally vide order dated 29.04.2013.

17. Feeling aggrieved by the judgement dated 21.10.2011 rendered by the Full Bench in **Gajraj's case (supra)**, some of the land owners challenged the same before the Supreme Court. The leading case was registered as Civil Appeal No. 4506 of 2015 (**Savitri Devi Vs. State of**

U.P. and others). The aforesaid Civil Appeal, along with connected matters, were disposed of finally vide judgement dated 14.5.2015 [reported as (2015) 7 SCC 26, **Savitri Devi Vs. State of U.P. and others**] with the following observations:

“ 48. To sum up, following benefits are accorded to the land owners:

48.1 increasing the compensation by 64.7%;

48.2 directing allotment of developed abadi land to the extent of 10% of the land acquired of each of the land owners;

48.3 compensation which is increased at the rate of 64.7% is payable immediately without taking away the rights of the land owners to claim higher compensation under the machinery provided in the Land Acquisition Act wherein the matter would be examined on the basis of the evidence produced to arrive at just and fair market value.

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50. we make it clear that directions of the High Court are given in the aforesaid unique and peculiar/specific background and, therefore, it would not form precedent for future cases.”

(emphasis supplied)

18. At this juncture, the Greater Noida Authority, in its 104th Board meeting dated 14.03.2016, took a decision to allot 10% of developed land upto the maximum limit of 2,500 square meters pursuant to earlier orders passed by this Court as well as Hon'ble the Supreme Court.

19. The aforesaid proposal was sent to the State Government for approval. However, the State Government, vide its order dated 21.09.2016, refused to grant its approval to the same.

20. On account of the above letter/order of the State Government,

the Greater Noida Authority, in its 115th Board meeting, passed the resolution dated 22.08.2019, in which, vide agenda item no. 115/10, it was resolved that the proposal to allot 10% of developed land subject to the maximum limit 2,500 square meters be re-called.

21. Pursuant to the aforesaid order, counter affidavit has been filed by respondent no. 4, the Greater Noida Authority, in the leading writ petition as well as other connected writ petitions affecting the Greater Noida Authority. Counter affidavits have also been filed by Noida Authority in some of the connected writ petitions. However, no counter affidavit has been filed by the State Government till date.

22. The learned counsel for the parties agreed that irrespective of above, since period of more than four years has rolled by from the date of filing of aforementioned writ petitions, the same be disposed of finally at the admission stage itself. Consequently, with the consent of the parties and as provided under the Rules of this Court, the bunch of writ petitions was heard for final disposal and is, therefore, now being decided finally.

PETITIONERS' ARGUMENTS:

23. Mr. Manu Khare, along with Mr. Pankaj Dubey, the learned counsel for some of the petitioners, submitted that the petitioners are entitled to allotment of 10% developed land, subject to the ceiling limit of 2,500 square meters, on the basis of directions contained in Full Bench judgement of this Court in **Gajraj's case (supra)** as well as the judgement of Supreme Court in **Savitri Devi's case (supra)**. It was also contended that since subsequent to aforesaid judgements the Greater Noida Industrial Development Authority had itself resolved to allot 10% of developed land, no deviation can be made from the same. To lend legal support to his submissions, he has relied upon the following judgements/orders of Hon'ble the Supreme Court as well as this Court:-

- (1) **Gajraj & others Vs. State of U.P. & others** reported in [2011 (11) ADJ 1]

(2) Judgement dated 19.07.2011 rendered in Writ C No. 17068 of 2009 (**Har Karan Singh Vs. State of U.P.**);

(3) **Savitri Devi Vs. State of U.P.** [(2015) 7 SCC 21];

24. Mr. Pankaj Dubey, learned counsel for some of the petitioners has supplied a chart in support of his submission that some of the notifications issued under Sections 4 and 6 of the 1894 Act were not covered in **Gajraj's case (supra)** decided by the Full Bench of this Court, but were covered in **Savitri Devi's case (supra)** decided by the Supreme Court. The same are as under:-

| Sl. No. | SLP No. | Appeal No. | Village | Date of Notification |
|---------|--|-------------------------------------|-------------------------|--------------------------------------|
| 1 | SLP (CIVIL) 22716-22718/14 W. P. No. 4875 of 2011 | Civil Appeal No. 004766-004768/2015 | Lakhnawali | 28.11.2002 U/S 4 29.01.2003 U/S 6 |
| 2 | SLP (CIVIL) 22384-22385/14 W.P. No. 55008 of 2020 | Civil Appeal No. 004764-004765/2015 | Habibpur | 02.05.2003 U/S 4 26.06.2003 U/S 6 |
| 3 | SLP (CIVIL) 06024-06027/14 W.P. No. 52178 of 2011 | Civil Appeal No. 004742-004745/2015 | Birondi Chakrasenpur | 18.12.2001 U/S 4 30.03.2003 U/S 6 |

25. It was further submitted that after passing of the judgement in **Savitri Devi's case (supra)**, the respondents have not complied with the directions contained thereunder. Therefore, the parties therein moved eight contempt petitions before the Apex Court, the leading being Contempt Petition (C) (Diary) No. 1507 of 2022. In the said contempt petitions, the respondents filed affidavit stating therein that the orders/directions have been complied with. In order words, 10% developed land was allotted to the parties in the contempt petitions. Thereafter, the contempt petitions were disposed of on 21.03.2022.

26. Mr. V. M. Zaidi, learned Senior Counsel, assisted by Mr. M.J. Akhtar, has adopted the arguments of Mr. Manu Khare. He submitted that the petitioners are entitled for allotment of 10% developed land in view of the directions contained in the Full Bench judgement of this Court in

Gajraj's case (supra).

27. Mr. Kamlesh Kumar Mishra, learned counsel for some of the petitioners, has also adopted the arguments raised by other counsel. He has relied upon the following orders/judgements:-

(1) Order dated 14.05.2012 passed by the Full Bench in Review Application No. 368519 of 2011 in Writ-C no. 37443 of 2011 (**Gajraj and others Vs. State of U.P. and others**)

(2) 2014 (2) ADJ 30 (**Khemchand and others Vs. State of U.P. and others**).

RESPONDENTS' ARGUMENTS:

28. Mr. Ramendra Pratap Singh, learned counsel for the Greater Noida Authority, submits that the claim of the petitioners for allotment of 10% of developed land upto the maximum limit of 2,500 square meters is not tenable. He submits that the Authority cannot allot developed land to any person without previous approval of the State Government. He further submits that pursuant to the orders passed by this Court as well as Hon'ble the Supreme Court, the Authority passed resolutions dated 02.11.2011, 25.11.2011 and 14.03.2016, whereby decision was taken to allot 10% developed land, subject to the ceiling limit of 2,500 square meters. However, the decision taken by the Noida Authority was not approved by the State Government. It is on account of above that the Authority had subsequently passed the resolution dated 22.08.2019, whereby it has been resolved that earlier proposal to allot 10% of developed land subject to the ceiling limit of 2,500 square meters be recalled. The tenure holders/land owners, who had already executed sale deeds in favour of Noida Authority in respect of acquired land, have no *locus* to maintain the writ petitions seeking allotment of 10% of developed land subject to the ceiling limit of 2,500 square metres. It has, lastly, been submitted that in view of the judgements of Hon'ble the Supreme Court, this Court as well as various orders passed by this Court, the petitioners do not have an indefeasible

right to claim allotment of 10% developed land subject to the ceiling limit of 2,500 square metres. He has relied upon the following judgements:-

(a) With regard to the proposition that the petitioners have no legal right to claim allotment of 10% developed land subject to the ceiling limit of 2,500 sq. mtrs., reliance is placed upon:

(i) **Mange @ Mange Ram Vs. State of U.P. and others**, 2016 (8) ADJ 79 (DB),

(ii) judgement dated 11.08.2016 in Writ Petition No.37373 of 2016 (**Raja Ram Vs. State of U.P. and others**),

(iii) judgement dated 09.01.2018 in Writ-C No.28781 of 2012 (**Umesh Kumar Sharma Vs. State of U.P. and others**),

(iv) **Khatoon and others Vs. State of U.P. and others**, 2018 (14) SCC 346, (v) judgement dated 31.10.2019 in Writ-C No.34922 of 2019 (**Gajraj Vs. State of U.P. and others**), and

(vi) judgement dated 05.10.2020 in Writ-C No.10262 of 2020 (**Jai Kumar Sharma and others Vs. State of U.P. and others**).

(b) In support of the submission that such tenure holders/land owners who have executed sale deed in favour of Noida Authority regarding acquired land have no right to claim 10% of developed land subject to the ceiling limit of 2,500 square meters, reliance is placed upon the order of this Court dated 3.2.2012 passed in Writ C No. 6176 of 2012 (**Brahma Singh and others Vs. State of U.P. and others**).

29. Ms. Anjali Upadhyay, one of the counsel appearing for the Greater Noida, has also adopted the arguments raised by Shri Ramendra Pratap Singh and opposed the writ petitions. She contended that in view of the judgement of the Apex Court in **Savitri Devi's case (supra)** and thereafter, judgement in **Khatoon's case (supra)**, the present petitions are liable to be dismissed. She further submitted that none of the petitioners was before the Court on earlier occasions.

30. Learned counsel appearing on behalf of respondents nos. 1 to 3 submits that the claim of the petitioners for allotment of 10% developed land subject to the ceiling limit of 2,500 square meters is not tenable in law and fact. The view as taken by the Full Bench in **Gajraj's case (supra)** as affirmed by the Supreme Court in **Savitri Devi's case (supra)**, the petitioners do not have any such right under the 1894 Act. As such, the claim of the petitioners that they have a right to have 10% of developed land subject to the ceiling limit of 2,500 square metres is not an indefeasible right. In support of the submission, he has relied upon the following judgements/orders:-

(1) **Khatoon and others Vs. State of U.P. and others**, (2018) 14 SCC, 346

(2) **Mange alias Mange Ram Vs. State of U.P.** 2016 (8) ADJ 79 (DB);

(3) Order dated 31.10.2019 passed in Writ C No. 34922 of 2019 (**Gajraj Vs. State of U.P. and three others**).

31. Mr. Shivam Yadav and Mr. Kaushlendra Nath Singh, the learned counsel representing the New Okhla Industrial Development Authority (NOIDA), have also opposed these writ petitions. They have adopted the arguments raised by Mr. Ramendra Pratap Singh as well as learned Standing Counsel. They contend that subsequent to the Full Bench judgement of this Court in **Gajraj's case (supra)**, the Board of the Noida Authority, in its 188th Meeting dated 29.11.2013, deferred the decision

regarding aforesaid subject matter. Subsequently, the Board of the Noida Authority held its 197th Meeting on 27.09.2019 and vide Agenda Item No.2, resolved not to allot 10% developed land. He has, however, relied upon order dated 17.02.2012 passed by the Full Bench of this Court in Civil Misc. Writ Petition No. 6022 of 2018 (**Pratap Singh Vs. State of U.P.**) in support of the proposition that the writ petitions, placed in Group -B by the Full Bench in **Gajraj's case (supra)**, were dismissed. It was also contended that present writ petitions, which pertain to the notifications under Sections 4 and 6 of the 1894 Act and fall in Group B category formulated by the Full Bench of this Court, are liable to be dismissed.

COURT'S ANALYSIS:

32. On the submissions and counter submissions urged on behalf of the learned counsel for the parties, the following issues arise for determination in this bunch of writ petitions.

(i) Whether in view of the judgement of the Apex Court in **Savitri Devi's case (supra)** and the subsequent judgement in **Khatoon's case (supra)**, the petitioners are entitled for allotment of 10% developed land subject to the ceiling limit of 2,500 square meters?

(ii) Whether the land owners/writ petitioners, who were not parties in the earlier round of litigation, can maintain the claim for allotment of 10% developed land subject to the ceiling limit of 2,500 square meters?

(iii) Whether such land owners/tenure holders who have executed sale deeds in favour of Noida Authority are entitled to claim 10% of developed land subject to the ceiling limit of 2,500 square metres?

(iv) Whether the decision of the State Government, refusing to accord sanction/approval to the proposal of the

Greater Noida Authority as taken in its 104th Board meeting dated 14.03.2016, is illegal, unjust and arbitrary?

(v) What will be the effect on the right of the land owners whose writ petitions were dismissed by the Full Bench of this Court in **Gajraj and others' case (supra)**.

ISSUE NOS. (i) & (ii):

33. As issue nos. (i) & (ii) are interconnected, therefore, the same are being decided together.

34. It has been vehemently urged on behalf of petitioners that all such tenure holders/land owners, whose land was acquired pursuant to the notifications under Section 4 and 6 of the 1894 Act read with Section 17 of the 1894 Act as well as other notifications covered under the Full Bench Judgement of this Court in **Gajraj's case (supra)** or under **Savitri Devi's case (supra)** decided by Supreme Court, are entitled to the aforesaid benefit.

35. The grounds urged on behalf of petitioners for claiming 10% developed land subject to ceiling limit of 2,500 square meters, though appears to be attractive at the first flush, but are devoid of substance. The submission is that subsequent to the Full Bench judgement of this Court in **Gajraj's case (supra)**, some of the land owners/tenure holders challenged the same before the Supreme Court. All the Civil Appeals/Special Leave Petitions were clubbed together and decided by a common judgement dated 14.02.2015, as **Savitri Devi's case (supra)**, wherein, in paragraph no. 50, it has been held that in view of the peculiar circumstances, the order passed by the High Court would not form precedent for future cases. The observation made in paragraph no. 50 in **Savitri Devi's case (supra)** reads as under:-

50. Conclusion Keeping in view all these peculiar circumstances, we are of the opinion that these are not the

cases where this Court should interfere under Article 136 of the Constitution. However, we make it clear that directions of the High Court are given in the aforesaid unique and peculiar/specific background and, therefore, it would not form precedent for future cases.”

(emphasis supplied)

36. Subsequent to the judgement in **Savitri Devi's case (supra)**, the Supreme Court in **Khaton's case (supra)**, while considering the question as to whether the appellants therein are entitled to claim additional abadi land in lieu of their acquired land in terms of the judgement in **Gajraj's case (supra)** and upheld in **Savitri Devi's case (supra)**, has held as under:-

“49. That apart, there is no basis for the appellants to press in service the principle underlined in Article 14 in such cases for the simple reason that firstly, Article 14 does not apply to such cases; and secondly, there is no similarity between the case of those landowners, who filed the writ petitions and the present appellants, who did not file the writ petitions. Though the High Court, in Gajraj’s case (supra) decided the rights of both categories of landowners but the cases of both stood on a different footing. It is for these reasons, the appellants were not held entitled to take benefit of condition No. 3 (a) and (b) of the case of Gajraj (supra) which was meant for the writ petitioners therein but not for the appellants. However, the appellants were held entitled to take the benefit of only condition No. 4 (a) and (b) of the said judgment and which they did take by accepting the additional compensation payable at the rate of 64.70%.

50. In our view, therefore substantial justice was done to all the landowners including the appellants, as observed in para 49 of Savitri Devi’s case (supra).

37. In view of subsequent judgements of this Court as well as the Apex Court as noted herein-above, claim of the land owners/tenure holders for allotment of 10% of Abadi land subject to the ceiling limit of 2,500 square meters has been negated, the benefit, as claimed by the petitioners, cannot be granted.

38. The land owners/tenure holders, whose lands have been acquired under the 1894 Act, are not entitled as a matter of right for allotment of 10% of developed land, subject to the ceiling limit of 2,500 square meters.

39. In view of the aforesaid, as held by the Apex Court in **Savitri Devi's** and **Khatoon's cases (supra)**, the landowners/tenure holders cannot get benefit of the same as the judgement rendered by the Full Bench of this Court in **Gajraj's case (supra)** was in view of the peculiar facts & circumstances of the case, which would not form precedent for the future cases and therefore, the benefit cannot be accorded to the petitioners, who were not before the Court in earlier round of litigation.

ISSUE NO. (iii):

40. We shall now deal with the next issue involved in these bunch of writ petitions, i.e., whether such tenure holders, who have executed sale deeds in favour of Noida Authorities in respect of lands sought to be acquired by virtue of notifications published under Sections 4 and 6 of the 1894 Act, are entitled to claim 10% of developed land subject to the ceiling limit of 2,500 square meters. A Division Bench of this Court, vide order dated 03.02.2012 passed in **Writ-C no. 6176 of 2012 (Braham Singh and others Vs. State of U.P. and others)**, negated the claim of such tenure holders.

41. However, in view of the observation contained in paragraph no. 50 of the judgement rendered by the Supreme Court in **Savitri Devi's** and **Khatoon's cases (supra)**, all tenure holders, who were affected by the notifications under Sections 4 and 6 of the 1894 Act, the benefit cannot be

granted to the petitioners. Therefore, we have no hesitation to conclude that by virtue of above, the tenure holders, who have executed sale deeds of their land pursuant to the notifications issued under Sections 4 and 6 of the 1894 Act and such notifications are covered under aforesaid judgements, are not entitled to have the benefit of allotment of 10% developed land subject to the ceiling limit of 2,500 square meters.

ISSUE NO. (iv):

42. The State Government has not filed any counter affidavit disputing the claim of the petitioners. Only oral objections have been raised disputing the claim of the petitioners. It is only during the course of hearing that the letter/order of the State Government dated 21.09.2016 was placed before us. It is on the basis of the aforesaid letter/order of the State Government that Mr. Vineet Pandey, learned Chief Standing Counsel, has submitted before us that the State Government has rightly refused to accord its approval/sanction to the resolution of the Greater Noida Authority dated 14.03.2016 passed in its 104th Board meeting, as the Apex Court in **Savitri Devi's** and subsequently, in **Khatoon's cases (supra)** has held that the order passed by the High Court shall not form precedent for future cases.

43. The Greater Noida Authority has taken a specific stand before us that no allotment of land can be made without sanction/approval of the State Government. As the decision taken by the Greater Noida Authority to allot 10% of developed land subject to the ceiling limit of 2,500 square meters has not been approved by the State Government, the Greater Noida Authority has consequently passed the resolution dated 22.08.2019 in its 115th Board meeting, whereby, a decision has been taken to recall the proposal formulated vide resolution dated 14.03.2016.

44. In view of the judgements of the Apex Court in **Savitri Devi's and Khatoon's cases (supra)**, where the Apex Court has very categorically held that the order passed by the High Court, in the peculiar facts & circumstances, would not form precedent for future cases, no claim can be

made on the basis of the Full Bench judgement of this Court in **Gajraj's case (supra)** and the State Government has rightly refused to accord its approval/sanction to the resolution dated 14.03.2016 passed by the Greater Noida in its 104th Board's meeting.

ISSUE NO. (v):

45. We now come to the last issue involved in this bunch of writ petitions. On behalf of the petitioners, it has been urged that by virtue of the directions issued by the Supreme Court in **Savitri Devi's case (supra)**, all such petitioners, whose lands were acquired under the 1894 Act, are also entitled to allotment of 10% developed land subject to the ceiling limit of 2,500 square meters.

46. The aforesaid claim has been seriously objected to by the learned counsel for respondents. They contend that once the writ petitions were dismissed by the Full Bench of this Court and order passed on the writ petitions of such tenure holders, whose writ petitions were dismissed having not been challenged before the Supreme Court, are now bound by the judgement of the Full Bench of this Court, as *qua* then the matter attained finality.

47. The objection so raised on behalf of the respondents holds water in view of the observation/direction issued by the Apex Court in **Savitri Devi's and Khatoon's cases (supra)**, wherein, it has been clearly held that directions of the High Court, given in the unique and peculiar/specific background, it would not form precedent for future cases. Therefore, no benefit can be granted to the petitioners, whose writ petitions were dismissed by the Full Bench of this Court in **Gajraj's case (supra)**.

48. The claim so raised by the petitioners appears to be attractive, but is of no substance in view of the observation made in paragraph no. 50 by Supreme Court in the case of **Savitri Devi's case (supra)** and thereafter, in **Khatoon's case (supra)**. The logical corollary of the same shall be that all such tenure holders, whose lands were acquired pursuant to the

notifications involved in **Gajraj's case (supra)**, **Savitri Devi's case (supra)** as well as **Khaoon's case (supra)**, are not entitled to the aforesaid benefit.

CONCLUSION:

49. Upon evaluation of the submissions advanced on behalf of the learned counsel for the parties, the material available on record as well as the law laid down by the Apex Court in **Savitri Devi's** and **Khaoon's cases (supra)** and the judgement of the Full Bench of this Court in **Gajraj's case (supra)**, we do not find any good ground to grant the relief as prayed for. All the writ petitions are devoid of merit and the same are, accordingly, dismissed.

(Piyush Agrawal)
Judge

(Rajesh Bindal)
Chief Justice

Allahabad
May 31, 2022
Amit Mishra

Whether the order is speaking: -
Whether the order is reportable: Yes