

A.F.R.

Reserved on 29.07.2026
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2026:AHC:165276-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT – C No. - 18752 of 2024

Vijai Kumar and 153
others

.....Petitioners(s)

Versus

State of U.P. and 5
others

.....Respondents(s)

Counsel for Petitioners(s)	: Ajay Kumar Singh, Ashish Kumar Singh, Tejas Singh
Counsel for Respondent(s)	: C.S.C., Ravi Prakash Pandey

WITH

(i) WRIT - C No. - 36353 of 2023 (Raj Kumar And 129 Others vs. State Of U.P. And 5 Others)

(ii) WRIT - C No. - 19422 of 2024 (Krishna Prasad And 48 Others vs. State Of U.P. & 4 Others)

Court No. - 21

**HON'BLE MAHESH CHANDRA TRIPATHI, J.
HON'BLE KUNAL RAVI SINGH, J.**

Ahmad Ansari, learned Standing Counsel for the State-respondents; and Shri Ajit Kumar Singh, learned Senior Counsel, as well as Shri M.C. Chaturvedi, learned Senior Counsel assisted by Shri Ravi Prakash Pandey, learned counsel for the Varanasi Development Authority (in short, "The Authority").

2. The present bunch of Writ petitions are connected together with regard to a common acquisition proceedings initiated by the Authority. In Writ C No. 18752 of 2024, the petitioners have prayed for the following reliefs:

“1. Issue a Writ, order or direction in the nature of certiorari quashing the award dated 10.01.2024 (Annexure No. 1 to this Writ petition) passed by Special Land Acquisition Officer, Varanasi under Land Acquisition Act, 1894 for acquiring properties of petitioners set no.1 situate at Village Bairwan, Pargana-Kaswar Sarkari, Tehsil-Sadar, Raja Talab, District-Varanasi:

II. Issue a Writ, order or direction in the nature of certiorari quashing the award dated 10.01.2024 (Annexure No. 2 to this Writ petition) passed by the Special Land Acquisition Officer, Varanasi under the Land Acquisition Act, 1894 for acquiring the properties of the petitioners set no.2 situate at Village Karnadadi, Pargana-Kaswar Sarkari, Tehsil-Sadar, Raja Talab, District-Varanasi:

III. Issue a Writ, order or direction in the nature of mandamus directing respondents-authorities not to interfere in the peaceful occupation and possession of the petitioners over their respective properties in question OR ELSE pass an Award under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013;

IV. Any other relief with this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case.

V. Award costs of the petition.”

(b) Issue a Writ, order or direction in the nature of Mandamus directing the Respondent No.2, 3, 4 and 5 not to interfere with the possession of the petitioners over the land in question situated at Village Bairavan and Karanadadi, Post Gangapur, Tehsil Rajatalab, District Varanasi.

(c) Issue any other suitable Writ, order or direction, as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

(d) Award cost of the petition in favour of the petitioner.”

Whereas in Writ C No. 36353 of 2023, the petitioners have prayed for the following reliefs:

“(I) Issue a Writ, order or direction in the nature of mandamus directing respondents-authorities, particularly respondent nos. 2 to 6, to remove obstructions such as pillars, barbed wires etc. causing interference in ingress and egress over properties in question of petitioners (detailed in a chart in paragraphs no. 5 to the Writ petition), forthwith;

(II) Issue a Writ, order or direction in the nature of mandamus directing respondents-authorities to mutate the names of petitioners over their respective plots after expunging the name of the State of U.P. (Varanasi Development Authority, Varanasi) from the Revenue Records;

(III) Issue a Writ, order or direction in the nature of mandamus directing respondents-authorities not to interfere in the peaceful occupation and possession of the petitioners over their respective properties in question (detailed in a chart in paragraphs no. 5 to the Writ petition);

(IV) Any other relief with this Hon'ble Court may deem fit and proper in the facts and circumstances of present case.

(V) Award costs of the petition.”

FACTS:

4. The land acquisition proceedings initiated by the Authority have led to three previous rounds of litigation. Initially, a Gazette notification under Section 4 (1) read with Section 17 (1) of the Land Acquisition Act, 1894¹ was issued on 18.12.2000. Thereafter, a corrigendum dated 15.03.2001 was issued to acquire certain lands mentioned in schedule, being situated in villages Karnadadi, Milki Chak, Sarai, Mohan, Birwan Kaswar Sarkari, Raja Talab, District Varanasi. Thereafter, a notification under Section 6 of the Act, 1894 was issued on 09.04.2001. Notice under Section 9 of the Act, 1894 was issued on 25.06.2001. Possession of the notified land was taken by the Special Land Acquisition Officer, Varanasi and transferred to the authority on 17.04.2003.

5. Steps were taken for declaring the award, in respect of the land acquired, in accordance with U.P. Land Acquisition (Determination of compensation and declaration of award by agreement Rules, 1997)². A meeting was held on 27.04.2011 under the Chairmanship of District Magistrate, Varanasi, in which tenure-holders also participated. In the said meeting, it was resolved that compensation of acquired land to be fixed at Rs.1.50 lac per biswa for parcel of land extending upto 30 meters from the road and at the rate of Rs. 1 lac per biswa for the remaining acquired land beyond 30 meters. The rate of compensation for the land worked out to be Rs.1186/- per sq. meter in respect of the parcel of land upto 30 meters of road and Rs.790/- per sq. meter for the land situated beyond it. In accordance with the rates determined in the meeting dated 27.04.2011, agreements were executed by the tenure-holders for the declaration of award under Section 11(2) of the Act.

6. As per the respondents, a sum of Rs.31,24,07,238/- has been paid to the land owners for an area of 38.7213 hectares. Further agreements were also entered into in respect of an additional area of 6.5276 hectares of land belonging

for an area of 48.3844 hectares land, an amount of Rs.39,26,76,250/- has been paid or deposited.

7. In respect of village Karnadadi, an award was consequently made on 27.09.2012 in respect of 20.919 hectares of land. For village Birwan, an award was made on 20.09.2012 for an area measuring 23.469 hectares, and in respect of village Milki Chak an award was made on 21.08.2012 for 0.317 hectares of land, and for village Sarai Mohan, an award was made in respect of 0.544 hectares of land on 21.08.2012. An award has accordingly been made under Section 11(2) of the Act, 1894 in respect of 45.249 hectares of land out of total area acquired of 86.219 hectares. No award has yet been made in respect of the remaining acquired land.

FIRST ROUND OF LITIGATION:

8. Writ C No. 15586 of 2001 was filed by the land-losers challenging the acquisition notifications issued under Section 4 and 6 of the Act, 1894. Amongst the various grounds taken in the Writ petition, one of the grounds was dispensation of the enquiry under Section 5-A. The said petition came to be dismissed by a Coordinate bench of this Court by order dated 04.10.2002. Thus, the challenge to the notifications on the ground of dispensation of enquiry under section 5-A stood negated in the first round of litigation.

SECOND ROUND OF LITIGATION:

9. Thereafter, in the second round of litigation with regard to the acquired lands, the land-losers filed Writ C No. 29419 of 2008. The challenge in the said Writ petition was qua the applicability of Section 11-A of the Act, 1894, on the premise that the awards had not been made and the acquisition itself had lapsed. The said Writ petition was rejected by a judgment of a Coordinate bench on 29.07.2008 holding that the possession was taken by the Authority in accordance with law and therefore the possession memo cannot be faulted.

compensation was held in the year 2011. In the said Writ petition, the Court, by its judgment dated 31.05.2023, issued certain directions with regard to the 2nd set of the petitioners, i.e. those who had neither entertained into any agreement with the State for receiving compensation nor had any award been made in their favor till date (the petitioner in the present writ petitions).

11. In respect of the 1st set of petitioners against whom the award had already been made, the land acquisition proceedings stood finalized. As regarding some of the petitioners in the 1st part, who had not received compensation despite the awards earlier made, the Court allowed them to receive the compensation upon furnishing the requisite documents to the concerned authority. As regards to the second part of the petitioners, the Court directed the preparation of an award in light of the law laid down by the Supreme Court in ***Delhi Airtech Services Private Limited and another vs. State of U.P and another***³ as well as ***Aligarh Development Authority versus Megh Singh and others***⁴.

12. The judgment and the order dated 31.05.2023 passed in Writ C No. 61219 of 2011 was challenged by means of ***Jagmani Devi vs. State of Uttar Pradesh and others***⁵ before the Supreme Court. No interim order was passed in the said SLP and it remains pending before the Supreme Court.

13. During the pendency of the aforesaid SLP, some of the land-losers filed a Contempt Application (civil) No. 7369 of 2023; Virendra Upadhyay and 9 others versus Rajalingam, Collector and 4 others before this Court. The said contempt petition is pending consideration before the Court and the contempt notice is yet to be discharged.

14. Thereafter, an award in respect of the remaining acquired land was made by the Special Land Acquisition Officer, Varanasi by means of an award dated 10.01.2024. The same award is under challenge by means of the present

PETITIONERS' SUBMISSIONS:

15. Learned Senior Advocate appearing on behalf of the petitioners made several contentions regarding the challenge to the award passed by the Special Land Acquisition Officer. He submitted that the award dated 10.01.2024 is per se arbitrary and illegal, on the ground that it was made under the provisions of the old Act, i.e., the Land Acquisition Act, 1894. He submitted that the provisions of the Act are not applicable in the present instance and that the award should have been made in light of the provisions of the Right to Fair Compensation senior advocate and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013⁶.

16. He submits that the market value, as determined by the Special Land Acquisition Officer, is arbitrary, as the market value should be computed as per the date of enforcement of the Act, 2013, i.e., 01.01.2014. It was submitted that the computation of the market value as per the award dated 20.09.2012 is illegal and arbitrary, and that the market value as determined in the earlier award is not applicable to the present case. Furthermore, 80% of the compensation was not deposited before possession was taken by the State Government, and hence the conditions laid down under Section 17(3-A) of the Act, 1894 were not satisfied; consequently, the land acquisition lapsed in view of the mandatory requirement of law as well as the law laid down in *Delhi Airtech* (supra).

17. It was also submitted that the Authority had not utilized the acquired land for the establishment of "Transport Nagar"; rather, the authorities are engaged in selling the acquired land at the current market/commercial rate to private entities, which cannot be the purpose of the acquisition. Hence, on this ground also, the acquisition proceedings are arbitrary and are liable to be set aside.

were complied with, and that the award was made on the basis of the same directions. The Court, in its judgement dated 31.05.2023, specifically directed that the award be made in light of ***Delhi Airtech*** (supra) and ***Aligarh Development Authority*** (supra), and the award was passed taking into consideration the said judgements.

19. As to the contention regarding the mandatory 80% deposit for taking possession, learned Senior Advocate submitted that the said contention has already been noted by the Court in the previous round of litigation, and the same is not open to challenge in the present proceedings. He submitted that the Court had already taken note of the fact that compensation was deposited prior to 2012, and hence the ground of non-compliance with Section 17(3-A) of the Act, 1894 is no longer open to adjudication in the present litigation.

20. Furthermore, the acquisition proceedings have already been upheld by the Court in the first and second rounds of litigation, initiated by the land-losers, and hence any ground which could have been taken in the earlier litigations cannot be taken in the present round of litigation, and the challenge should be confined only to the directions issued by the Court in Writ-C No. 61219 of 2011. He submitted that the present award can only be challenged if the conditions laid down in ***Delhi Airtech*** (supra) have not been complied with, and that in the present case, the directions laid down in ***Delhi Airtech*** (supra) were completely complied with, and the award was declared in accordance with the directions given therein.

RELEVANT FINDINGS IN THE EARLIER JUDGEMENT DATED 31.05.2023:

21. Before proceeding to appreciate the contentions of the learned Senior Advocates, it is pertinent to examine the purport of the judgement dated 31.05.2023 passed in Writ-C No. 61219 of 2011. The said judgement came to

within this set were some land-losers who had not received any compensation even though the award had been made in respect of their lands. As regards the first set of petitioners, the Court held that the acquisition proceedings stood completed and there could be no challenge to the acquisition proceedings. The second set of petitioners were those in whose favor the awards were never made and no compensation was paid.

22. The Court, after examining the law as laid down in ***Delhi Airtech*** (*supra*), laid down the following conditions:

*“37. Our attention has also been invited to the counter affidavit filed by petitioner nos. 89 and 134 in the leading Writ petition to the affidavit of State, wherein a letter of District Magistrate, Varanasi dated 26.07.2021 is annexed as per which acquisition notification is proposed to be de-notified where award has not been made. There is nothing on record to show that any decision has been taken by the State on such communication. Sri A.K. Singh, learned Additional Advocate General, states that such proposal of the District Magistrate has not been accepted by the State. Once that be so, it shall be open for the State to take an appropriate decision in respect of the remaining land for which award has not been made so far. **An appropriate decision would be taken whether to proceed with the acquisition in respect of land of the second part within six weeks from today.** In case a decision is taken to retain the acquired land, an appropriate award in accordance with law would have to be made keeping in view the law laid down by the Supreme Court in *Delhi Airtech Services Pvt. Ltd (supra)* as well as *Aligarh Development Authority vs. Megh Singh and others* (2016) SCC 504. Till such a decision is taken, the State shall not assert/claim any right over such land for which award is not made or payment of compensation is not received by the tenure-holders. **(Highlight by Court)***

38. In view of the deliberations and discussions held above, both the Writ petitions are decided on the following terms:-

(i) Challenge laid to the acquisition notification fails in respect of tenure-holders, who have entered into agreement with State under the Rules of

such land shall continue to remain protected, and no right shall be claimed by the respondents over such land unless the respondents make an award in accordance with law and pay compensation to the tenure-holders.”

23. The present set of petitioners constitutes the second part of litigants in the aforesaid Writ petition. Therefore, the directions issued by the Court for the award to be made in light of ***Delhi Airtech*** (*supra*) are applicable, and what the Court now has to examine is whether the directions laid down in ***Delhi Airtech*** (*supra*) have been complied with while making the award.

THE LAW LAID DOWN IN DELHI AIRTECH (SUPRA):

24. In ***Delhi Airtech*** (*supra*), the Supreme Court was dealing with the issue of whether the requirement to tender payment of 80% of the estimated compensation, as contemplated under Section 17(3-A) of the Act, 1894, is mandatory to ensure absolute vesting of the notified land. The Supreme Court was essentially dealing with the applicability of Section 11-A of the Act, 1894 vis-à-vis Section 17(3-A) of the Act, 1894. The Supreme Court gave the following directions:

“36. In the result, we pass the following order:

36.1. The provision contained in Section 11-A of the 1894 Act shall be applicable to cases in which the acquiring authority has not complied with the requirement of sub-section (3-A) of Section 17 of the 1894 Act by tendering and paying eighty per centum of the estimated compensation before taking possession since possession in such cases cannot be considered to be taken in accordance with law and the vesting is not absolute.

36.2. If the requirement is complied with and possession is taken after tendering and paying eighty per centum, though there is need to pass an award and pay the balance compensation within a reasonable time, the rigour of Section 11-A of the 1894 Act will not apply so as to render the entire proceedings for acquisition to lapse in the context of absolute vesting. The right of the land-loser in such case is to enforce passing of

37.1. The respondents shall construe 9-6-2008 as the relevant date and determine the market value prevailing as on that date applying the yardstick under the 1894 Act in respect of the acquired land.

37.2. To calculate the statutory benefits on such amount including interest, the same shall be determined by taking into consideration the date of the Section 4 Notification dated 17-4-2002 since the appellant was dispossessed on 4-2-2003 pursuant to the same.

37.3. The date on which the fresh award is passed pursuant to this judgment and communicated shall be the date of cause of action for seeking enhancement of compensation if the appellant is dissatisfied with the quantum of compensation offered.

37.4. The compensation determined in this case shall not give the cause of action to any other land-loser whose land is acquired under the same notification to seek redetermination of compensation.

37.5. The appellant shall be entitled to the costs incurred in these proceedings.”

25. The Supreme Court, in effect, held that where the acquiring authority has not complied with the requirement of sub-section (3-A) of Section 17 of the Act, 1894, the provisions contained in Section 11-A of the Act, 1894 would be applicable, as the vesting is not absolute in the absence of payment of 80% of the compensation. The Supreme Court further held that where 80% of the compensation has been deposited, the rigour of Section 11-A would not apply, and land-losers in such a case could enforce the award and recover the compensation. However, in that particular case, the Supreme Court molded the relief despite holding that Section 11-A of the Act, 1894 was applicable. This led to the directions in paragraph 37 of the judgement, which effectively provided that the market value must be determined as per the award already made in respect of the same acquisition, and the statutory benefits calculated accordingly. The said proposition of law, as stated in paragraphs 36 and 37 of the said judgement, is to be examined in light of the present set of facts and circumstances.

the second part of the land-losers, against whom no award had been made and subsequently no compensation was paid. Therefore, the Authority as well as the State Government, while making the award, had to keep in mind the proposition of law laid down by the Supreme Court in paragraphs 36 and 37 of ***Delhi Airtech*** (*supra*).

DISCUSSION:

27. On examining the award dated 10.01.2024, we find that the date of determination of the market value has been taken to be 20.09.2012, which is the date on which the earlier awards for the first part of the land-losers were made. The rate of compensation has been taken to be the same as that made in the award dated 20.09.2012. As per the decision in ***Delhi Airtech*** (*supra*), there are two distinct possibilities when the Act of 1894 is invoked: the first is that 80% of the estimated compensation has not been deposited, resulting in the applicability of Section 11-A of the Act and the lapsing of the acquisition, as vesting of the acquired land is not complete. The other possibility is that the amount has been deposited, and therefore Section 11-A has no applicability, and the land-losers are liable to receive the compensation as per the award passed by the competent authority.

28. In the present case, in the earlier round of litigation, the ground of non-deposit of 80% of the estimated compensation was raised, and the Court, relying upon the averments made in the counter affidavit, conclusively held that the entire compensation had been deposited prior to 2012, thereby negating the argument with regard to non-deposit of 80% of the estimated compensation. Furthermore, in the earlier round of litigation, the challenge based on Section 11-A had already been negated, and therefore the applicability of Section 11-A cannot be raised in the present proceedings. As to which of the two possibilities the present case falls into is to be decided on the basis of the present set of circumstances.

compensation has already been paid and the possession has also been taken in the year 2003. Moreover, as the Supreme Court did not hold the acquisition to have lapsed, therefore in the present case also the directions as given in paragraph 37 of the ***Delhi Airtech*** (*supra*) are applicable, and in light of the same the impugned award is to be examined. The direction in paragraph 37 would also be applicable as the Court in its earlier judgment directed that an award is to be made in light of ***Delhi Airtech*** (*supra*). The judgment passed by this High Court still has binding precedential value, and the petitioners are bound by the directions given in the said judgment. Mere pendency of an SLP, without there being any interim order, would not come at a rescue to the petitioners.

FINDINGS:

30. As we have held above, the market value in the impugned award was derived by the market value, as determined in the award dated 20.09.2012, and statutory benefits as applicable on the award calculated thereafter. Therefore, it is apparent that the respondents, while making the award, have followed the conditions as laid down in the ***Delhi Airtech*** (*supra*) and we find no illegality or infirmity in the making of the award which requires any interference from this Court. Thus, we have no hesitation in holding that the award so made on 10.01.2024 is in accordance with the directions as given in the judgment of the Co-ordinate Bench in Writ C No. 61219 of 2011.

31. Once it is determined that the award was in light of the directions given in Writ-C No. 61219 of 2011, the challenge to the acquisition and the award on the ground that the market value had to be computed as on the date of enforcement of the Act of 2013, i.e., 01.01.2014, is rejected. Consequently, the award is upheld as the petition is devoid of any merit and therefore, stands **dismissed**.

it has been held that the award was made as per the directions given, then there is no need to examine any other ground as all the other grounds of challenge have already been negated by the Court in the earlier round of litigation.

WRIT C NO. 19422 OF 2024:

33. In light of what has been concluded above, the writ petition stands **dismissed** as well.

WRIT C NO. 36353 OF 2023

34. As the award has been upheld, there is no need to issue any further directions in the said writ petition. The present writ petition stands **dismissed** in light of what has been concluded in Writ C no. 18752 of 2024.

CONCLUSION:

35. In view of the aforesaid discussion and findings, all three connected Writ petitions, namely Writ-C No. 18752 of 2024, Writ-C No. 19422 of 2024, and Writ-C No. 36353 of 2023, stand **dismissed**. There shall be no order as to costs.

(Kunal Ravi Singh, J.) (Mahesh Chandra Tripathi)

7 August, 2026

Sumit S