



2026:AHC:64052

HIGH COURT OF JUDICATURE AT ALLAHABAD

FIRST APPEAL No. - 240 of 2026

Wahid Died And Others

.....Appellant(s)

Versus

State Of U.P.And Other

.....Respondent(s)

Counsel for Appellant(s)	:	A.K. Srivastava, Ashok Kumar Tripathi, N.Lal
Counsel for Respondent(s)	:	S.C.

Court No. - 39

HON'BLE SANDEEP JAIN, J.

Order on Civil Misc. Withdrawal Application No.12 of 2023:-

Order on Civil Misc. Delay Condonation Application No.13 of 2023:-

Order on Civil Misc. Recall Application No.14 of 2023:-

Learned counsel for the appellants submitted that Civil Misc. Substitution Application No. 418108 of 2014, along with a delay condonation application, was allowed by this Court vide order dated 07.12.2022. However, on the same set of facts, another substitution application bearing No. 307706 of 2014 was also filed and allowed on the same date, i.e., 07.12.2022. It is thus submitted that the order passed on Civil Misc. Substitution Application No. 418108 of 2014 has become infructuous, and therefore, the said order be recalled and the application be dismissed as withdrawn.

An affidavit has been filed in support of these applications, which remains uncontroverted.

I have heard learned counsel for the appellants and perused the record. It is evident that the substitution application for bringing on record the legal heirs of deceased appellant No. 1/2, Smt. Kaviran, was allowed by this Court vide order dated 07.12.2022 in Civil Misc. Substitution Application No. 418108 of 2014. It is also apparent that another substitution application, being Civil Misc. Substitution Application No. 307706 of 2014, was similarly allowed on the same date.

It appears that, due to an inadvertent error, two substitution applications were filed for the same purpose, i.e., for bringing on record the legal heirs of deceased appellant No. 1/2, Smt. Kaviran. The appellants now seek to withdraw Civil Misc. Substitution Application No. 418108 of 2014 and request that the order passed thereon be recalled.

Since only one substitution application on the same set of facts can be maintained, the order dated 07.12.2022 passed in Civil Misc. Substitution Application No. 418108 of 2014 is hereby recalled. The appellants are permitted to withdraw the said application.

Accordingly, Civil Misc. Substitution Application No. 418108 of 2014, along with the delay condonation application, is **dismissed as withdrawn**.

Learned counsel for the appellants is directed to amend the memo of appeal accordingly.

Order on appeal:-

1. The instant appeal has been filed by the landowners under Section 54 of the Land Acquisition Act, 1894 against the impugned judgment and award dated 28.05.1993 passed by the Court of Ist Additional District Judge, Ghaziabad in Land Acquisition Reference No. 431 of 1991 (Waheed vs. State of U.P. and another), whereby, for the acquired land situated in Village Prahaladgarhi, Tehsil Dadri, District Ghaziabad (now Gautam Budh Nagar), a compensation at the rate of Rs.77/- per square yard has been awarded to the landowners along with other statutory benefits admissible under the Land Acquisition Act, 1894.
2. Learned counsel for the appellant-landowners submitted that the controversy relating to the acquisition and compensation of land situated in Village Prahaladgarhi, Tehsil Dadri, District Ghaziabad (now Gautam Budh Nagar) has been settled by the Apex Court vide order dated 23.03.2021 passed in U.P. Awas Evam Vikas Parishad vs. Asha Ram (D) through LRs and others, 2021 INSC 201, wherein it has been held that compensation at the rate of Rs.120/- per square yard, besides other statutory benefits admissible under the Land Acquisition Act, 1894, is payable to the landowners.
3. Learned counsel submitted that keeping in view, the above judgment of the Apex Court, the landowners/appellants in the instant appeal are also entitled to the same amount of compensation, which has been awarded by the Apex Court in the above mentioned case.
4. With these submissions, it was prayed that the appeal be allowed and enhanced compensation be awarded to the appellants.
5. Per-contra, learned counsel for the respondent-State very fairly admitted that the matter of acquisition and compensation of land situated in Village Prahaladgarhi has attained finality and the Apex Court in the above referred case has awarded a compensation @ Rs.120/- per square yard to the similarly situated landowners, as such, the same amount of compensation may be granted to the landowners in the instant appeal, but they may not be awarded any interest for the period during which, the appeal remained defective.
6. I have heard the learned counsel of both the parties and perused the impugned judgment and documents submitted with the appeal. Appeal is admitted.

7. It is apparent that in the instant case, the matter relates to acquisition of land situated in Village Prahaladgarhi, Tehsil Dadri, District Ghaziabad (now District Gautam Budh Nagar), wherein the land was acquired by notification dated 26.06.1982, which was issued under Section 28 of the U.P. Awas Evam Vikas Parishad Adhiniyam, 1965.

8. Subsequently, notification under Section 32 of the Act, 1965 was published on 28.02.1987 and an award was made by the Collector on 27.02.1989, whereby a compensation at the rate of Rs.50/- per square yard was awarded to the landowners, which has been enhanced by the Reference Court to Rs.77/- per square yard.

9. It is further apparent that the Apex Court in the case of U.P. Awas Evam Vikash Parishad (supra) has decided the controversy finally and with respect to the land situated in Village Prahaladgarhi, which was acquired through notification dated 26.06.1982, under Section 28 of the U.P. Awas Evam Vikas Parishad Adhiniyam, 1965, has awarded a compensation @ Rs.120/- square yard, besides other statutory benefits admissible to them under the Land Acquisition Act, 1894.

10. In view of the above pronouncement of the Apex Court, the landowners of the instant appeal are also entitled to get similar amount of compensation for their similarly situated and acquired land.

11. Accordingly, **this appeal is allowed.** The appellants/landowners are held entitled to get enhanced compensation at the rate of Rs.120/- per square yard along with 30% solatium, additional compensation @ 12% per annum and enhanced interest under Section 28, as provided under the Land Acquisition Act, 1894.

12. This instant appeal was filed on 10.01.1994 but the deficiency of the Court fees was made good on 13.08.2002, as such, the appellants are not entitled to get any statutory interest on the enhanced amount of compensation awarded by this Court, for the above mentioned period between 10.01.1994 to 13.08.2002.

13. However, in the facts and circumstances of the case, there shall be no order as to costs.

14. Office is directed to prepare the decree accordingly.

March 26, 2026
Himanshu

(Sandeep Jain,J.)