

Virendra Kumar Srivastava vs State Of U.P. Thru. Prin. Secy. Revenue ... on 1 May, 2025

Author: Rajan Roy

Bench: Rajan Roy

HIGH COURT OF JUDICATURE AT ALLAHABAD, LUCKNOW BENCH

?Neutral Citation No. - 2025:AHC-LK0:25064-DB

Court No. - 2

Case :- WRIT - C No. - 3980 of 2025

Petitioner :- Virendra Kumar Srivastava

Respondent :- State Of U.P. Thru. Prin. Secy. Revenue Deptt. Lko. And 5 Others

Counsel for Petitioner :- Sunil Kumar

Counsel for Respondent :- C.S.C.,Abhishek Pathak,Prashant Kumar Srivastava
with

Case :- WRIT - C No. - 4053 of 2025

Petitioner :- Ram Achhaiber Verma

Respondent :- State Of U.P. Thru. Prin. Secy. Revenue Deptt. Lko. And Others

Counsel for Petitioner :- Sunil Kumar

Counsel for Respondent :- C.S.C.,Abhishek Pathak,Prashant Kumar Srivastava

Hon'ble Rajan Roy,J.

Hon'ble Om Prakash Shukla,J.

1.The above-captioned writ petitions arise out of same set of facts, therefore, they are being heard and decided together by a common order.

2. Heard Shri Sunil Kumar, learned Counsel for the petitioner, Shri Abhishek Pathak, learned Counsel for the N.H.A.I., Shri Prashant Kumar Srivastava, learned Counsel for the Bank and Shri Manish Mishra, learned Additional Chief Standing Counsel for the State.

3. After arguing the matter at some length, the Counsel for the parties are ad idem that the case at hand and the issue involved is squarely covered by our judgment dated 10.01.2025 passed in Writ C No.9698 of 2024, which reads as under:-

"1. Heard Shri Sunil Kumar, learned counsel for the petitioner, Shri Manish Mishra, learned Additional Chief Standing Counsel for the State, Shri Abhishek Pathak, learned counsel for the opposite party no. 5 and Shri Avadhesh Shukla, learned counsel for the opposite party no. 6.

2. After hearing learned counsel for the parties what comes out is that after the competent authority had determined the compensation payable to the land owners an application for correction of the said order/award was filed by the National Highway Authority of India before the Collector under Section 33 of the Arbitration and Conciliation Act, 1996. During pendency of the said application an order was passed on 26.09.2018 by the Collector, who happens to be the Statutory Arbitrator under the National Highway Authority Act, 1956, to the Bank, for freezing the bank account of the petitioner on the allegation that the excess compensation has been paid, however, the said application under Section 33 came to be dismissed on 18.08.2021, as, informed by learned Additional Chief Standing Counsel Shri Manish Mishra and is annexed at Page 37 of the writ petition.

3. On being asked as to whether there is any order wherein there may be a finding that excess compensation has been paid to the petitioner or deposited in his bank account learned Additional Chief Standing Counsel appearing for the Collector fairly submitted that as far as his clients are concerned there is no such order.

4. The National Highway Authority of India has filed an application for setting-aside the order dated 18.08.2021 passed by the Collector under Section 33, under Section 34 of the Act, 1996, wherein, there is no interim order for freezing the bank account of the petitioner.

5. When we confronted Shri Shukla, learned counsel for the Bank he submitted that vide order dated 26.09.2018 of the Statutory Arbitrator i.e. the Collector, the account

of the petitioner had been freezed and thereafter, no order for unfreezing the account has been passed.

6. The net result is that there is no order determining that excess compensation has been paid to the petitioner. The petitioner has already withdrawn Rs.1,10,00,000/- out of about Rs.1,14,00,000/- which was deposited as compensation in his bank account with the opposite party- Bank when his father was alive, as, it was joint account at that time.

7. On being confronted learned counsel for the opposite parties submitted that there is no F.I.R. lodged against the petitioner, therefore, obviously there is no action by the Investigating Officer under the erstwhile Cr.P.C. or the new B.N.S.S. for freezing the bank account nor has any been placed before us nor it is the case of the Bank' counsel that any such communication has been received.

8. We are, therefore, surprised as to how the bank account of the petitioner continues to be freezed. It appears that it is only on account of non communication of unfreezing order by the Collector even after rejection of the application under Section 33 on 18.08.2021. As, there is no determination by any authority or Court that excess compensation has been paid to the petitioner, as yet, therefore, we see no reason for freezing the bank account of the petitioner. We, accordingly, direct the opposite party no. 6-Bank to de-freeze the bank account and allow the petitioner to operate the same subject to the condition that if, in future, if such determination takes place that excess compensation has been paid, then, process as may be prescribed in law can be resorted to for recovery of the excess amount or for taking such other action as may be permissible in law.

9. With the aforesaid observations/directions, the writ petition is disposed of."

4. In this petition, the matter is relating to the same acquisition and the facts and issues involved are same. We, therefore, dispose of this writ petition on the same terms and direct the opposite party No.6-Bank herein to defreeze the bank account and allow the petitioner to operate the same subject to the conditions that, if, in future, if such determination of the amount payable under the National Highways Authority of India Act, 1956 takes place that excess compensation has been paid, then, process as may be prescribed in law can be resorted to for recovery of the excess amount or for taking such other action as may be permissible in law. As, at least three petitions have come up before this Court arising out of the same matter wherein we have passed orders, one is the petition in which the order was passed on 10.01.2025 as quoted hereinabove and in these two petitions we have passed the order today, therefore, the Collector, Sultanpur should look into matter as to in how many matters such communications have been sent by the Bank without any authority of law for freezing the account and the accounts remained freezed, as it is quite possible that such persons may not have the means to approach the Court seeking similar reliefs, therefore, if he finds that there is no justification for such freezing of the accounts in law in view of what we have already stated in the abovequoted order, then he shall do the needful and send requisite communication to the Bank

concerned without the said persons being compelled to approach this Court. It is informed that list of such persons is annexed as Annexure No.3 to this writ petition (Writ C No.3980 of 2025). Let this exercise be completed in three months.

5. With the aforesaid observations/directions, the writ petitions are disposed of on aforesaid terms.

(Om Prakash Shukla, J.)

(Rajan Roy, J.)

Order Date :- 1.5.2025

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