

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CM No. 15490 of 2014 and
CWP No. 5604 of 2003

Date of Decision: 27.7.2015

Subedar Hakam Singh (Retd)

....Petitioner.

Versus

State of Haryana and others

...Respondents.

**CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MRS. JUSTICE REKHA MITTAL.**

PRESENT: Mr. Sanjeev Sharma, Senior Advocate with
Mr. Bhavna Joshi, Advocate for the petitioner.

Mr. Sudeep Mahajan, Addl. Advocate General, Haryana.

AJAY KUMAR MITTAL, J.

CM No. 15490 of 2014

This is an application filed under Section 151 of the Code of Civil Procedure for release of the land in question in view of Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as "2013 Act") as the petitioner is still in physical possession of the same and no compensation has been paid to him.

With the consent of the parties, the writ petition is taken up for hearing today itself.

CWP No. 5604 of 2003

1. By way of instant petition filed under Articles 226/227 of the

Constitution of India, the petitioner has prayed for issuance of a writ in the nature of certiorari for quashing the order dated 30.9.2002 (Annexure P-9) and award dated 25.5.1979 (Annexure P-1) qua his land.

2. Put shortly, the facts necessary for adjudication of the present petition as narrated therein may be noticed. Government of Haryana vide notification dated 26.10.1971 issued under Section 4 of the Land Acquisition Act, 1894 (in short "the Act") followed by notification dated 29.4.1972 under Section 6 of the Act acquired the land including the land of the petitioner for the public purpose for construction of link road Baldev Nagar Camp to Dhan Kaur via Barnala. The award was passed on 25.5.1979 (Annexure P-1). The petitioner made a request for release of his land on the ground that the link road had since been constructed on a different area and, therefore, his land had been rendered surplus from acquisition, but to no effect. Hence, the present writ petition.

3. An application bearing CM No. 15490 of 2014 has been filed under Section 151 of the Code of Civil Procedure for release of the land in question in view of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as "2013 Act") as the petitioner is still in physical possession of the same and no compensation has been paid to him.

4. Learned counsel for the petitioner submitted that the petitioner is in physical possession of the land in dispute. No compensation has been paid to him. It was claimed that in such circumstances, in view of Section 24(2) of the 2013 Act, the notifications under Sections 4 and 6 of the Act had lapsed. It was further submitted

that since no demand notice claiming the relief as claimed in respect of lapse of notifications has been filed with the respondents, the present writ petition be disposed of with liberty to the petitioner to file a detailed and comprehensive representation before the appropriate authority by incorporating the grievance as raised in the present writ petition, however, direction be issued to the authority concerned to decide the representation expeditiously in a time bound manner in accordance with law. A prayer for interim relief was also made.

5. In view of the above, the present writ petition as well as the application are disposed of by granting liberty to the petitioner to file a detailed and comprehensive representation raising all the pleas as are available to the petitioner before the appropriate authority. It is directed that in the event of a representation being filed by the petitioner within a period of two months from today, the same shall be decided in accordance with law by passing a speaking order and after affording an opportunity of hearing to it within a period of four months from the date of receipt of representation. The petitioner shall be entitled to lead any evidence to substantiate his claim before the concerned authority. Till the matter is decided by the said authority, status quo shall be maintained by the parties. It is, however, made clear that in case no such representation is filed within the stipulated period as noticed above, the interim order shall cease to operate, thereafter.

6. CM No. 15490 of 2014 also stands disposed of.

(AJAY KUMAR MITTAL)
JUDGE

July 27, 2015
gbs

(REKHA MITTAL)
JUDGE