

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 14297 of 2001

Date of Decision: 5.8.2015

Urmila Devi (Deceased) through her LRs

....Petitioner.

Versus

State of Haryana and others

...Respondents.

**CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MR. JUSTICE DARSHAN SINGH.**

PRESENT: Mr. C.B. Kaushik, Advocate for the petitioner.

Mr. Gaurav Jindal, Additional Advocate General, Haryana.

AJAY KUMAR MITTAL, J.

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 notifications dated 12.6.2000 (Annexure P-12) issued under Section 4 of the Land Acquisition Act, 1894 (in short "the Act") and dated 11.6.2001 (Annexure P-14) under Section 6 of the Act for acquisition of land including the land of the petitioner situated within the revenue estate of Daultabad, Tehsil and District Faridabad.

2. Put shortly, the relevant facts necessary for adjudication of the present petition as narrated therein may be noticed. The petitioner was owner in possession of land measuring 1 kanal 13½ marlas out of land measuring 6 kanal 15 marlas situated within the revenue estate of

village Daultabad, Tehsil and District Faridabad and had raised 'A' and 'B' class construction thereon. Earlier respondent No.1 had issued notifications under Section 4 of the Act on 19.12.1973 (Annexure P-2) and another on 6.11.1981 (Annexure P-3) for acquisition of the land including the land of the petitioner which were allowed to lapse as no further proceedings were taken out. Thereafter, notifications dated 6.2.1989 (Annexure P-4) were issued under Section 4 of the Act and dated 2.2.1990 (Annexure P-5) under Section 6 of the Act. The said notifications were challenged in a number of writ petitions and this Court vide order dated 23.9.1991 (Annexure P-6) passed in CWP No. 3617 of 1990 quashed the said notifications. Another notification dated 5.6.1992 (Annexure P-7) was issued under Section 4 of the Act followed by notification dated 4.6.1993 (Annexure P-8) under Section 6 of the Act. The petitioner filed objections under Section 5-A of the Act. The said notifications were also allowed to lapse. Again notifications dated 3.7.1995 (Annexure P-9) and dated 2.7.1996 (Annexure P-10) were issued for acquisition of the land in question. The petitioner along with other landowners challenged the said acquisition by way of CWP No. 9450 of 1998 and this Court vide order dated 11.5.1999 (Annexure P-11) quashed the notifications, Annexures P-9 and P-10. Thereafter, Government of Haryana vide notification dated 12.6.2000 (Annexure P-12) issued under Section 4 of the Act followed by notification dated 11.6.2001 (Annexure P-14) under Section 6 of the Act acquired the land including the land of the petitioner for commercial, institutional, recreational and residential purposes as Sector 20-A, Urban Estate, Faridabad. The petitioner filed objections under Section 5-A of the Act on 27.6.2000 (Annexure P-13). As per policy dated 26.6.1991

(Annexure P-15), the land having construction of 'A' and 'B' category is to be excluded from the acquisition. A public notice dated 13.6.2001 (Annexure P-16) was published in the news paper 'Nai Rashtriya Dhara' for issuance of notification under Section 6 of the Act. Government of Haryana wrote a letter dated 24.3.1994 (Annexure P-17) to the then Faridabad Complex Administration for regularization of unauthorized area of Ajroni, Sector 21-A, Faridabad. The land of Shri Mahipal Singh was released from acquisition vide order dated 5.4.1991 (Annexure P-18). Further, the Friends Colony set up in Sector 20, Faridabad has been excluded from acquisition vide letter dated 15.3.1996 (Annexure P-19). Similarly, the land of G.S. Kocher and Company has also been released vide order dated 27.5.1997 (Annexure P-20) and that of Kewal colony, Faridabad has also been excluded from the acquisition. However, till date no action has been taken in the matter. Claim has been made 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 her.

4. Learned counsel for the petitioner submitted that the petitioner is in physical possession of the land in dispute and compensation has not been paid to her. 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 dismissed as withdrawn 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 him within a period of four months from the date of receipt of representation. The petitioner shall be entitled to lead any evidence to substantiate her 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.

(AJAY KUMAR MITTAL)
JUDGE

August 5, 2015
gbs

(DARSHAN SINGH)
JUDGE