

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CM No. 7090 of 2015 and
CWP No. 4628 of 2004

Date of Decision: 13.7.2015

Dr. Birender Singh and others

....Petitioners.

Versus

The State of Haryana and others

...Respondents.

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

PRESENT: Mr. Sandeep Sharma, Advocate for the petitioners.

Ms. Palika Monga, Deputy Advocate General, Haryana.

AJAY KUMAR MITTAL, J.

1. Notice in the application.
2. Ms. Palika Monga, Deputy Advocate General, Haryana accepts notice.
3. Through the instant petition filed under Articles 226/227 of the Constitution of India, the petitioners have prayed for issuance of a writ in the nature of certiorari for quashing the notifications dated 24.12.2002 (Annexure P-3) issued under Section 4 of the Land Acquisition Act, 1894 (in short "the Act") and dated 15.12.2003 (Annexure P-8) under Section 6 of the Act. Further, a writ of mandamus has been sought directing the respondents to release the land of the petitioners from acquisition and to stay their dispossession.

4. The facts, in brief, necessary for adjudication of the present petition as narrated therein may be noticed. Government of Haryana vide notification dated 24.12.2002 (Annexure P-3) issued under Section 4 of the Act followed by notification dated 15.12.2003 (Annexure P-8) acquired the land of the petitioners and some adjoining land for the development and utilization of land for residential and commercial purposes. Some of the petitioners filed objections (Annexures P-4 to P-7, respectively) under Section 5-A of the Act. The land of the petitioners is surrounded by fully developed and constructed area on 3 sides which stands released from acquisition. State of Haryana had taken a policy decision dated 26.6.1991 (Annexure P-12) for not acquiring built up houses and constructed areas. Hence, the present writ petition.

5. An application has been filed praying 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 petitioners are still in physical possession of the same.

6. Learned counsel for the petitioners submitted that the petitioners are in physical possession of the land in dispute. 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 petitioners 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.

7. In view of the above, the present writ petition as well as the application are disposed of by granting liberty to the petitioners to file a detailed and comprehensive representation raising all the pleas as are available to them before the appropriate authority. It is directed that in the event of a representation being filed by the petitioners 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 them within a period of four months from the date of receipt of representation. The petitioners shall be entitled to lead any evidence to substantiate their 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

July 13, 2015
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(REKHA MITTAL)
JUDGE