

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 10138 of 2014

Date of Decision: 3.8.2015

Smt. Krishni Devi and others

....Petitioners.

Versus

State of Haryana and others

...Respondents.

**CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MR. JUSTICE SHEKHER DHAWAN.**

PRESENT: Mr. Ashwani Kumar Bura, Advocate for the petitioners.

Ms. Palika Monga, Deputy Advocate General, Haryana.

Mr. R.S. Longia, Advocate for respondents No.2 and 3.

AJAY KUMAR MITTAL, J.

1. In this 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 3.1.1977 (Annexure P-3) issued under Section 4 of the Land Acquisition Act, 1894 (in short "the Act"), dated 22.5.1978 (Annexure P-6) under Section 6 of the Act and the award dated 27.2.1986 (Annexure P-8) qua their land, having lapsed 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") in pursuance to

2. Government of Haryana issued a notification dated 3.1.1977 (Annexure P-3) under Section 4 of the Act followed by notification dated

22.5.1978 (Annexure P-6) under Section 6 of the Act for acquisition of land of the petitioners. Some of the landowners moved an application to the Chief Minister for release of their land from acquisition which was marked to the Additional Secretary to Government of Haryana, Agriculture Department who vide letter dated 19.4.1977 (Annexure P-5) sought the objections of respondent No.2 in case the proposed land was released to them. The award was passed on 27.2.1986 (Annexure P-8). The petitioners challenged the said acquisition by way of CWP No. 1829 of 1986 in which notice of motion was issued and dispossession was stayed by this Court vide order dated 11.4.1986 (Annexure P-9). Ultimately, the said writ petition was dismissed by this Court vide order dated 18.9.1986 (Annexure P-10). Feeling aggrieved, the petitioners filed SLP (Civil) No. 12946 of 1986 which was dismissed as withdrawn by the Supreme Court vide order dated 9.12.1996 (Annexure P-12). Thereafter, all the landowners made a joint representation, Annexure P-13, to respondent No.2 for cancellation of the impugned notifications. Respondent No.2 sought information from respondent No.4 vide letter dated 25.2.1997 (Annexure P-14) regarding the latest position of the possession of the land in question and whether the remaining land was sufficient if the land in question is released and the Market Committee is in favour of the release of the land. Respondent No.4 allotted the contract to one Ashok Kumar contractor for constructing the boundary wall around the land in question on 11.4.1997. The said contractor served a legal notice dated 13.5.1998 (Annexure P-15) upon the Executive Engineer, Haryana State Agriculture Market Board, Kaithal. The Superintending Engineer, Haryana State Agriculture Marketing Board vide letter dated 5.8.1998 (Annexure P-16) stated that the land

around which the boundary wall is to be constructed is actually at present in possession of former landowners and the entire land is being tilled by them and, therefore, the work be cancelled. Respondent No.2 sought comments from respondent No.4 and in pursuance thereto, respondent No.4 wrote a letter dated 5.11.1998 (Annexure P-17) to respondent No.2 that the Land Acquisition Officer was asked to pay the compensation of the acquired land to the landowners but till date the Land Acquisition Officer did not initiate any proceedings in this regard. The petitioners are still in physical possession of the land in question. No compensation has been paid to them. According to the petitioners, the acquisition proceedings have lapsed in view of Section 24(2) of the 2013 Act. Hence, the present writ petition.

3. Learned counsel for the petitioners submitted that the petitioners are in physical possession of the land in dispute and compensation has not been paid to them. 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, liberty be granted 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.

4. After hearing learned counsel for the parties, perusing the present petition and without expressing any opinion on the merits of the case, we dispose of the present petition by granting liberty to the

petitioners to file a detailed and comprehensive representation raising all the pleas as raised in the present writ petition 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

August 3, 2015
gbs

(SHEKHER DHAWAN)
JUDGE