

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 10030 of 2015

Date of Decision: 19.5.2015

Om Parkash

....Petitioner.

Versus

The State of Haryana and others

...Respondents.

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

PRESENT: Mr. V.K. Jindal, Senior Advocate with
Mr. Akshay Kumar Jindal, Advocate for the petitioner.

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 mandamus directing the respondents to release his land as the acquisition proceedings for the land acquired vide notifications dated 28.3.1985 (Annexure P-2) issued under Section 4 of the Land Acquisition Act, 1894 (in short “the Act”), dated 16.10.1986 (Annexure P-3) under Section 6 of the Act and the award dated 8.4.1992 (Annexure P-4) have 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”)

2. The petitioner is owner of the land measuring 4500 square yards situated at village Gurgaon, District Gurgaon and had constructed a house thereon. Government of Haryana vide notification dated

28.3.1985 (Annexure P-2) issued under Section 4 of the Act followed by notification dated 16.10.1986 (Annexure P-3) under Section 6 of the Act, acquired the land for the development of residential, commercial and widening of road in village Gurgaon, District Gurgaon. The award was passed on 8.4.1992 (Annexure P-4). The petitioner filed CWP No. 908 of 1986 whereby the petitioner was relegated to file a civil suit to ascertain the fact whether the construction of the house was prior to the issuance of notification under Section 4 of the Act. In pursuance thereto, the petitioner filed a civil suit which was decreed vide judgment dated 26.7.1997 (Annexure P-5) holding that the house constructed by the petitioner is much prior to the issuance of notification under Section 4 of the Act. Thereafter, the petitioner filed CWP No. 11686 of 1988 which was dismissed by this Court vide order dated 10.12.2010 (Annexure P-6) against which he filed SLP (Civil) CC 18374 of 2011 and the same was also dismissed by the Apex Court vide order dated 7.12.2011 (Annexure P-7). The petitioner is still in physical possession of the land in question. No compensation has been paid to him. According to the petitioner, 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 petitioner submitted that the petitioner is still in physical possession of the land in question and compensation has not 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, liberty be granted 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.

4. After hearing learned counsel for the petitioner, 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 petitioner 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 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 the petitioner 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. 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

May 19, 2015
gbs

(REKHA MITTAL)
JUDGE