

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 11113 of 2014

Date of Decision: 1.7.2015

Ashok Kumar 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. Ashish Aggarwal, Senior Advocate with
Mr. Vijay Kajla, Advocate for the petitioners.

Ms. Palika Monga, Deputy Advocate General, Haryana.

AJAY KUMAR MITTAL, J.

1. By way of 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 10.5.1989 (Annexure P-11) issued under Section 4 of the Land Acquisition Act, 1894 (in short “the Act”), dated 9.5.1990 (Annexure P-12) under Section 6 of the Act and the award dated 7.5.1992 (Annexure P-13) 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 petitioners are owners in possession of land, as detailed in para 2 of the writ petition. Initially, in the year 1986, the land in question was sought to be acquired vide notification dated 11.8.1986

issued under Section 4 of the Act for construction of a Rural Warehouse for the benefit of Haryana Warehousing Corporation. Since, no further proceedings were taken, the said notification had lapsed. Subsequently, Government of Haryana issued a notification dated 22.3.1988 (Annexure P-1) under Section 4 of the Act followed by notification dated 10.10.1988 (Annexure P-2) under Section 6 of the Act for acquisition of land of the petitioners for construction of a Rural Warehouse. The award was passed on 28.4.1989 (Annexure P-3). The petitioners challenged the said acquisition proceedings by filing CWP No. 8487 of 1989 and this Court vide order dated 6.3.2001 (Annexure P-4) quashed the acquisition proceedings. In pursuance thereto, mutation dated 5.6.2008 (Annexure P-5) was sanctioned in favour of the petitioners. The State Government has issued another notification dated 10.5.1989 (Annexure P-11) under Section 4 of the Act followed by notification dated 9.5.1990 (Annexure P-12) under Section 6 of the Act for acquisition of the land in question along with other land for Sectors 6, 7 and 8, Panipat. The award was made on 7.5.1992 (Annexure P-13). They are still in physical possession of the land in question. No compensation has been paid to them and the same is lying with respondent No.2. 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 and is lying with respondent No.2. 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

July 1, 2015
gbs

(REKHA MITTAL)
JUDGE