

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 10485 of 2015

Date of Decision: 25.5.2015

Asha Rani

....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. Rajnish Gupta, 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 certiorari for quashing the notifications dated 2.1.2002 (Annexure P-2) issued under Section 4 of the Land Acquisition Act, 1894 (in short "the Act") and dated 24.12.2002 (Annexure P-3) under Section 6 of the Act as 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").

2. The petitioner is owner of the land measuring 12 kanal 1 marla situated in village Phoosgarh, Tehsil and District Karnal to the extent of 1/3rd, i.e. 4 kanals. She installed a small scale industry under the name and style of M/s Bharat Surface Coatings, Phoosgarh in the year 1989. The said unit was exempted from payment of sales tax vide

certificate dated 13.5.1993 (Annexure P-1) being established in rural area. She along with other co-sharer also constructed a boundary wall of 5" height. As per policy of the State Government, the industrial unit and other commercial establishment, constructed prior to the issuance of notification under Section 4 of the Act cannot be acquired. The respondents vide notification dated 2.1.2002 (Annexure P-2) issued under Section 4 of the Act followed by notification dated 24.12.2002 (Annexure P-3) under Section 6 of the Act, acquired the land including the industrial unit of the petitioner for the development and utilization of land as residential and commercial area for Sector 9 Part 32 and 33 Part, Karnal. The petitioner filed objection under Section 5-A of the Act. The respondents issued notice dated 9.11.2004 (Annexure P-4) under Section 9 of the Act. The award was passed on 21.12.2004. The petitioner is still in physical possession of the land in question. No compensation has been paid to her. 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 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, 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 her 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 25, 2015
gbs

(REKHA MITTAL)
JUDGE