

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 105 of 2015

Date of Decision: 1.4.2015

Rajinder Kumar and others

....Petitioners.

Versus

State of Haryana and others

...Respondents.

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

PRESENT: Mr. S.K. Jain, Advocate for the petitioners.

Mr. Sudeep Mahajan, Addl. Advocate General, Haryana.

Mr. Saurabh Goel, Advocate for respondent No.3.

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 30.11.2004 (Annexure P-3) issued under Section 4 of the Land Acquisition Act, 1894 (in short "the Act"), dated 28.11.2005 (Annexure P-4) under Section 6 of the Act and the award dated 27.11.2007 (Annexure P-5) qua the land of the petitioners 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 along with other co-owners are in joint possession of the land measuring 30 kanals 2 marlas situated within the revenue estate of village Khairpur, Hadbast No.79, Tehsil and District

Sirsa as fully detailed in para 2 of the writ petition. Respondent No.1 issued a notification dated 30.11.2004 (Annexure P-3) under Section 4 of the Act followed by notification dated 28.11.2005 (Annexure P-4) under Section 6 of the Act for acquisition of 56.80 acres of land of village Khairpur, Hadbast No. 79, Tehsil and District Sirsa for the public purpose, i.e. for residential and commercial purpose as per the development plan at Sirsa. However, the land measuring 6.50 acres consisting of graveyard, cremation ground, school and residential houses was released from the acquisition. The award was passed on 27.11.2007 (Annexure P-5) for 49.02 acres of land. The petitioners along with co-owners moved an application to get change of land use from the competent authority in accordance with law and the policy of the State Government which was rejected by the Director, Town and Country Planning, Haryana vide order dated 27.3.2009. Accordingly, the petitioners along with other co-owners filed CWP No. 4980 of 2013. This Court disposed of the writ petition by allowing the petitioners to avail their statutory remedy of appeal under Section 10 of the Punjab Scheduled Roads and Controlled Areas (Restriction of Unregulated Development) Act, 1963. In pursuance thereto, the petitioners filed an appeal before respondent No.2 who vide order dated 10.10.2013 dismissed the same holding that the acquired land did not vest in the petitioners and other co-owners. According to the petitioners, the acquisition proceedings have lapsed in view of Section 24(2) of the 2013 Act as they are still in physical possession of the land in question and no compensation has been paid to them. 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 the 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.

(AJAY KUMAR MITTAL)
JUDGE

April 1, 2015
gbs

(REKHA MITTAL)
JUDGE