

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 11375 of 2014

Date of Decision: 2.7.2015

Shyam Lal 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. Rahul, 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 22.6.2006 (Annexure P-4) issued under Section 4 of the Land Acquisition Act, 1894 (in short "the Act") and dated 20.6.2007 (Annexure P-5) under Section 6 of the Act qua their land. Further, a writ of mandamus has been sought directing the respondents to release the land of the petitioners from the acquisition 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 the land situated in village Jatheri, Tehsil and District Sonapat. Government of Haryana issued a notification dated 22.6.2006 (Annexure P-4) under

Section 4 of the Act followed by notification dated 20.6.2007 (Annexure P-5) under Section 6 of the Act for acquisition of 3813 kanal 17 marlas of land of villages Badh Malik, Badh Khalsa, Jatheri, Liwan, Pritampur and Rai, Tehsil and District Sonapat including the land of the petitioners for the development of industrial Sector 38, Sonapat. The petitioners filed objections under Section 5-A of the Act. As per policy dated 26.10.2007 (Annexure P-7) framed by respondent No.1, any land proposed to be acquired where residential structures have been constructed prior to issuance of notification under Section 4 of the Act and are inhabited, is not to be acquired and, therefore, the land of the petitioners has to be exempted from acquisition. Notices under Section 9 of the Act were issued to the petitioners. The award was passed on 28.11.2008. They 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

July 2, 2015
gbs

(REKHA MITTAL)
JUDGE