

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CM No. 7264 of 2015 and
CWP No. 10713 of 2015

Date of Decision: 28.5.2015

Shiv Dham Mandir, Karnal

....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. Sanjiv Gupta, Advocate for the petitioner.

AJAY KUMAR MITTAL, J.

1. Affidavit of the petitioner filed along with CM No. 7264 of 2015 is taken on record subject to all just exceptions. CM stands disposed of accordingly.

2. 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-1) issued under Section 4 of the Land Acquisition Act, 1894 (in short "the Act"), dated 24.12.2002 (Annexure P-2) under Section 6 of the Act, noticed (Annexure P-5) under Section 9 of the Act, the award dated 21.12.2004 and order dated 20.1.2014 (Annexure P-11) vide which partial land of the petitioner has been released, 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”).

3. The petitioner constructed Shiv Dham Mandir on the land measuring 3 bigha 1 biswa. Government of Haryana vide notification dated 2.1.2002 (Annexure P-1) issued under Section 4 of the Act followed by notification dated 24.12.2002 (Annexure P-2) under Section 6 of the Act, acquired the land including the land of the petitioner for the development and utilization of land as residential and commercial for Sectors 9, Part 32-33, Karnal. The petitioner filed objections under Section 5-A of the Act on 1.2.2002 (Annexure P-3). Various land was released by the respondents from the acquisition. Notice under Section 9 of the Act, Annexure P-5, was issued to the petitioner to which it submitted the reply, Annexure P-6. The petitioner filed CWP No. 19369 of 2004 which was disposed of by this Court vide order dated 29.11.2007 with CWP No. 14287 of 2003. The petitioner submitted representations dated 21.8.2008 (Annexure P-7) and dated 20.8.2009 (Annexure P-8) for the release of land but to no effect. 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 the petitioner. According to the petitioner, the acquisition proceedings have lapsed in view of Section 24(2) of the 2013 Act. Hence, the present writ petition.

4. 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 it. 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.

5. 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 its 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 28, 2015
gbs

(REKHA MITTAL)
JUDGE