

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 10955 of 2015

Date of Decision: 27.5.2015

Sumesh Datt 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. Neeraj Gupta, Advocate for the petitioners.

AJAY KUMAR MITTAL, J.

1. In this 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 8.3.1989 (Annexure P-2) issued under Section 4 of the Land Acquisition Act, 1894 (in short "the Act"), dated 7.3.1990 (Annexure P-5) under Section 6 of the Act and the award dated 5.3.1992 (Annexure P-6) vide which their land petitioners was acquired. Further, prayer has been made to direct the respondents to release 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 are co-owners in possession of the ancestral land situated in village Kadipur, Tehsil and District Gurgaon.

Respondent No.1 issued a notification dated 8.3.1989 (Annexure P-2) under Section 4 of the Act followed by notification dated 7.3.1990 (Annexure P-5) under Section 6 of the Act for acquisition of land in question along with other land for the development and utilization of land as residential and commercial area, Sectors 9, 9-A and 10, Gurgaon. The petitioners filed objections under Section 5-A of the Act on 7.4.1989 (Annexure P-3). They also filed an application dated 13.2.1990 opposing the acquisition of the land in question. The award was passed on 5.3.1992 (Annexure P-6). The said notifications were challenged by the land owners in various writ petitions and the Government of Haryana vide order dated 20.4.2012 (Annexure P-7) took a decision to drop the acquisition for the land in the writ petitions but the land of the petitioners was not released. 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 petitioners, 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

May 27, 2015
gbs

(REKHA MITTAL)
JUDGE