

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 11146 of 2015

Date of Decision: 28.5.2015

Shri Tara Chand 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. M.L. Sharma, Advocate for the petitioners.

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 17.9.2004 (Annexure P-3) issued under Section 4 read with Section 17(2)(C) of the Land Acquisition Act, 1894 (in short "the Act"), dated 27.10.2004 (Annexure P-4) under Section 6 read with Section 17 of the Act and the award dated 9.3.2006 (Annexure P-5) qua the land of the petitioners in terms 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 of the land to the extent of their share situated within the revenue estate of village Naharpur Kasan, Tehsil and District Gurgaon. State of Haryana issued a notification dated 17.9.2004 (Annexure P-3) under Section 4 read with Section 17(2)(C) of

the Act followed by notification dated 27.10.2004 (Annexure P-4) under Section 6 read with Section 17 of the Act for acquisition of the land of the petitioners. The award was passed on 9.3.2006 (Annexure P-5). The land owners challenged the acquisition proceedings by way of CWP No. 17108 of 2004 which was allowed vide order dated 16.4.2009 (Annexure P-6) and the acquisition proceedings were quashed. Against the said order, LPA No. 1853 of 2010 was filed by the State which was dismissed by this Court vide order dated 17.1.2011 (Annexure P-7) and SLP CC No. 12933 of 2011 filed by the State against the said LPA order was also dismissed by the Supreme Court vide order dated 16.8.2011 (Annexure P-8). In another set of LPAs filed by the State, this Court vide order dated 28.1.2011 (Annexure P-9) while partly allowing the appeals quashed the acquisition proceedings and had given rights to the landowners to file objections under Section 5-A of the Act. Accordingly, the landowners filed objections under Section 5-A of the Act which have not been decided till date and the declaration under Section 6 of the Act has not been declared in some of the cases. In some of the cases, the respondents have issued notification under Section 6 of the Act in the month of August, 2014. 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 no compensation has 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 28, 2015
gbs

(REKHA MITTAL)
JUDGE