

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 1122 of 2015

Date of Decision: 23.4.2015

Ram Narain 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. V.K. Jindal, Senior Advocate with
Mr. Maninder Singh Punia, Advocate for the petitioners.

Ms. Palika Monga, Deputy Advocate General, Haryana.

Mr. Sudeep Mahajan, Advocate for the respondent-HUDA.

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 Mandamus directing the respondents to release their land as the notifications dated 19.5.1992 (Annexure P-1) issued under Section 4 of the Land Acquisition Act, 1894 (in short “the Act”) and dated 18.5.1993 (Annexure P-2) under Section 6 of the Act have lapsed 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 land measuring 8 kanal 14 marlas situated at Hisar which was purchased by them vide

sale deed dated 24.4.1959. After purchase, the petitioners installed a factory under the name and style of Seth Kanshi Ram Chemicals (India), Hisar and got it registered as a small scale unit on 4.10.1977. Petitioners are partners of the said unit. Government of Haryana vide notification dated 7.1.1972 issued under Section 4 of the Act for acquisition of 279.62 acres of land of village Hisar for a public purpose, namely, for planned development in the area of Hisar including the land of the petitioners. The said notification was lapsed as no subsequent notification under Section 6 of the Act was issued. Thereafter, another notification dated 20.5.1974 under Section 4 of the Act was issued for acquisition of 307.21 acres of land including the land of the petitioners for the public purpose namely for the development and utilization of the land as industrial area in the Urban Estate to be set up in village Hisar. The said notification was also lapsed as no further action was taken by the Government. Another notification dated 11.3.1981 under Section 4 of the Act followed by notification dated 2.12.1983 under Section 6 of the Act was issued by the Government of Haryana for acquisition of the land measuring 307.21 acres including the land of the petitioners for the development and utilization of the land as industrial area. The Government exempted the said land from acquisition and, therefore, the said notifications were lapsed. Government of Haryana again issued notification dated 19.5.1992 (Annexure P-1) under Section 4 of the Act followed by notification dated 18.5.1993 (Annexure P-2) under Section 6 of the Act for acquisition of the land measuring 389.79 acres for the development and utilization of land as industrial area in Sectors 9 and 11 at Hisar. The petitioners filed objections under Section 5-A of the Act on 16.6.1992. The award was passed on 17.5.1995. The said notifications

were challenged by the petitioners by filing CWP No. 6905 of 1995. Another CWP No. 7731 of 2010 was filed by the petitioners and the same was dismissed by this Court vide order dated 20.4.2010 (Annexure P-3). The petitioners moved a representation, Annexure P-4, to the Chief Minister for the release of the land in question. The District Town Planner vide letter dated 19.10.2006 informed the Senior Town Planner that the area surrounding the land in dispute is not acquired and as recommended that the decision regarding the release of the land of the petitioners be taken. Thereafter, the District Town Planner vide letter dated 1.9.2008 informed the Senior Town Planner that the land in question is covered by the land of the petitioner from all four sides and as such it was not possible to utilize the same and accordingly a report was submitted for taking further appropriate action. Similarly, a proposal dated 15.1.2009 (Annexure P-7) was submitted by respondent No.5 to respondent No.3 similar to the letter dated 1.9.2008 (Annexure P-6). The petitioners are still in physical possession of the land in dispute and 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 the 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.

(AJAY KUMAR MITTAL)
JUDGE

April 23, 2015
gbs

(REKHA MITTAL)
JUDGE