

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 11305 of 2015

Date of Decision: 28.5.2015

Narinder Kumar Arora

....Petitioner.

Versus

State of Haryana and others

...Respondents.

**CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MRS. JUSTICE REKHA MITTAL.**

PRESENT: Mr. Aashish Chopra, Advocate for the petitioner.

AJAY KUMAR MITTAL, J.

1. In this petition filed under Articles 226/227 of the Constitution of India, the petitioner has prayed for issuance of a writ in the nature of mandamus directing the respondents not to take any action under acquisition initiated vide notifications dated 12.8.2003 (Annexure P-1) issued under Section 4 of the Land Acquisition Act, 1894 (in short "the Act"), dated 10.8.2004 (Annexure P-3) under Section 6 of the Act and the award dated 7.8.2007 (Annexure P-11) qua the land measuring 41 kanal 8 marlas and 9 kanal 13 marlas situated within the revenue estate of Fatehpur, Tehsil and District Gurgaon and notifications dated 12.8.2003 (Annexure P-6) issued under Section 4 of the Act, dated 10.8.2004 (Annexure P-7) under Section 6 of the Act and award dated 8.8.2006 (Annexure P-12) qua the land measuring 10 kanal 18 marlas situated within the revenue estate of village Fatehpur, Tehsil and District Gurgaon, 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 petitioner is owner in possession of the land situated within the revenue estate of Fatehpur, Tehsil and District Gurgaon as detailed in para 3 of the writ petition and had raised permanent construction thereon. Government of Haryana vide notification dated 12.8.2003 (Annexure P-1) issued under Section 4 of the Act followed by notification dated 10.8.2004 (Annexure P-3) under Section 6 of the Act, acquired the land in question for the development and utilization of land as residential and commercial, Sector 47, Gurgaon. The petitioner filed objections under Section 5-A of the Act on 12.9.2003 (Annexure P-2). The petitioner applied for the grant of licence on the prescribed form LC-1 for setting up a Group Housing Colony along with licence fee amounting to ₹ 13,80,469/- and security fee of ₹ 7,82,146/-. He challenged the acquisition proceedings by way of CWP No. 7329 of 2005. This Court vide order dated 16.7.2005 (Annexure P-5) disposed of the said writ petition along with other petitions. Government of Haryana vide the said notification dated 12.8.2003 (Annexure P-6) issued under Section 4 of the Act followed by notification dated 10.8.2004 (Annexure P-7) under Section 6 of the Act acquired the land in question for the development and utilization of land for residential and commercial Sectors 49/50, Gurgaon. The petitioner challenged the said notifications, Annexures P-6 and P-7, by way of CWP No. 2780 of 2007 which was disposed of by this Court vide order dated 22.2.2007 by remitting the matter to the High Powered Committee (HPC). The petitioner appeared before the HPC who vide order dated 29.5.2007 rejected his representation against which the petitioner filed CWP No.

12048 of 2007. The application filed by the petitioner for grant of license for setting up a Group Housing Colony was rejected by respondent No.4 vide order dated 10.4.2009. The petitioner preferred an appeal against the said order which was allowed vide order dated 20.12.2012 directing respondent No.4 to decide the application afresh after affording an opportunity of hearing to the petitioner. CWP No. 12048 of 2007 was dismissed as withdrawn vide order dated 23.10.2013 (Annexure P-10) with liberty to the petitioner to raise all the contentions before the HPC. The awards were announced on 7.8.2007 (Annexure P-11) and on 8.8.2006 (Annexure P-12). In pursuance to the order dated 23.10.2013 (Annexure P-10), the petitioner filed a representation before respondent No.4 for release of the land in question and grant of licence. He also submitted written statements (Annexure P-13). Respondent No.4 vide order dated 8.5.2015 (Annexure P-14) rejected the application of the petitioner. The petitioner is still in physical possession of the land in dispute. No compensation has been paid to him. 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 petitioner submitted that the petitioner is in physical possession of the land in dispute and compensation has not been paid to him. 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.

4. 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 him within a period of four months from the date of receipt of representation. The petitioner shall be entitled to lead any evidence to substantiate his 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