

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 12415 of 2014

Date of Decision: 20.7.2015

Faquir Chand

....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. Rohan Sharma, Advocate for the petitioner.

Ms. Palika Monga, Deputy Advocate General, Haryana.

Mr. S.K. Mahajan, Advocate for respondent No.3.

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 certiorari for quashing the notifications dated 2.1.2002 (Annexure P-2) issued under Section 4 of the Land Acquisition Act, 1894 (in short "the Act"), dated 24.12.2002 (Annexure P-3) under Section 6 of the Act and all consequential proceedings arising therefrom and modification of order dated 24.4.2014 (Annexure P-5) to release the entire land, i.e. 278 square yards, 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. Government of Haryana vide notification dated 2.1.2002

(Annexure P-2) issued under Section 4 of the Act followed by notification dated 24.12.2002 (Annexure P-3) under Section 6 of the Act, acquired the land including the land of the petitioner for the development of residential and commercial area in Jind, District Jind. While issuing declaration under Section 6 of the Act, residential houses, farm houses, poultry farm, defunct cold storage of certain persons have been left out. The petitioner submitted a representation dated 20.2.2014 (Annexure P-4) to respondents No.1 and 2 for the release of land in view of Section 24(2) of the 2013 Act, but to no effect. Earlier the petitioner filed CWP No. 18486 of 2004 challenging the said notifications which was disposed of by this Court vide order dated 9.9.2008 with a direction to decide the case afresh. However, the case of the petitioner was rejected by the respondents vide order dated 7.8.2012. Thereafter, the petitioner again filed CWP No. 23898 of 2013 and the said writ petition was disposed of by this Court with a direction to consider the case of the petitioner in view of the policy issued by the State of Haryana and vide order dated 24.4.2014 (Annexure P-5) only 93.33 square yards land has been released. 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 him. According to the petitioner, 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 still in physical possession of the land in question 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 comprehensive 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 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 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 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

July 20, 2015
gbs

(REKHA MITTAL)
JUDGE