

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 12556 of 2014

Date of Decision: 1.7.2015

Parveen Mittal

....Petitioner.

Versus

The State of Haryana and others

...Respondents.

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

PRESENT: Ms. Shreya Puri, Advocate for
Mr. R.D. Bawa, Advocate for the petitioner.

Ms. Palika Monga, Deputy Advocate General, Haryana.

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 direction to the respondents to release his land measuring 14 bigha 4 biswas acquired for Sector 18, Part II, Jagadhri on 14.8.2002 as the possession of the said land is with him and, therefore, the acquisition proceedings made under the Land Acquisition Act, 1894 (in short "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 petitioner is owner in possession of 14 bigha 4 biswas of land situated at village Gobindpura, Hadbast No. 407, Tehsil Jagadhri, District Yamuna Nagar. Government of Haryana issued a notification dated 16.8.2001 (Annexure P-1) under Section 4 of the Act followed by notification dated 14.8.2002 under Section 6 of the Act for acquisition of 126.26 acres of land including the land of the petitioner for residential,

Sector 18, Part II, Jagadhri. The petitioner filed objections under Section 5-A of the Act. The award was passed on 26.2.2004 and corrigendum was issued on 15.3.2004 (Annexure P-2 Colly). On reference, the Additional District Judge, Yamuna Nagar vide award dated 18.11.2009 enhanced the rate of compensation. The petitioner had mortgaged the land with SBI Okhla, Inderpuri State, New Delhi and cleared the said loan vide rapat dated 12.9.2011 (Annexure P-7). He filed a civil suit on 24.3.2006 (Annexure P-8) for injunction restraining the respondents from dispossessing him from the land in question. The trial court vide order dated 28.3.2006 (Annexure P-9) restrained the defendants from dispossessing the petitioner from the suit land and further directed not to interfere in his actual physical possession. The stay application as well as suit of the petitioner was dismissed by the trial court vide judgment and decree dated 16.4.2007 (Annexure P-12) and the appeal filed against the said judgment was allowed by the appellate court vide judgment and decree dated 25.8.2008 (Annexure P-13) and the matter was remanded to the trial court. An application dated 24.12.2012 (Annexure P-14) was filed by the Haryana Urban Development Authority for early hearing of the suit. 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 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 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 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

July 1, 2015
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(REKHA MITTAL)
JUDGE