

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 13090 of 2014

Date of Decision: 6.8.2015

Om Parkash Saini

....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. Jagdish Manchanda, 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 writ in the nature of mandamus declaring and holding that the acquisition proceedings initiated vide notifications dated 9.9.2002 (Annexure P-3) issued under Section 4 of the Land Acquisition Act, 1894 (in short "the Act"), dated 8.9.2003 (Annexure P-5) under Section 6 of the Act and the award dated 6.9.2005 (Annexure P-9) qua his land.

2. Government of Haryana vide notification dated 9.9.2002 (Annexure P-3) issued under Section 4 of the Act followed by notification dated 8.9.2003 (Annexure P-5) under Section 6 of the Act, acquired the land including the land of the petitioner for the development of residential as well as commercial area in City Jind. The petitioner filed objections

under Section 5-A of the Act on 4.10.2002 (Annexure P-4). The respondents have exempted the constructed houses but the house of the petitioner as well as the Orchard has not been exempted from acquisition. The petitioner moved a representation dated 30.10.2003 (Annexure P-6) to the Chief Minister, Haryana and respondents No.2 and 4. Notice dated 23.8.2005 (Annexure P-7) under Section 9 of the Act was issued to the petitioner who made a representation, Annexure P-8, to the Chief Minister, Haryana for release of his house from acquisition. The award was passed on 6.9.2005 (Annexure P-9). The petitioner is still in physical possession of the land in question and no compensation has been paid to him. According to the petitioner, the acquisition proceedings 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"). 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 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

August 6, 2015
gbs

(REKHA MITTAL)
JUDGE