

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CWP No. 13019 of 2015 (O&M)
Date of decision: 5.08.2015**

Pawan Kumar

.....Petitioner

Vs.

State of Haryana and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE DARSHAN SINGH**

Present: Mr. Chanakya Pandit, Advocate for the petitioner.

Ajay Kumar Mittal,J.

CM No.9601 of 2015

1. Copy of the award dated 26.8.2009 is taken on record. Civil Miscellaneous application stands disposed of.

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2. The petitioner seeks quashing of notifications dated 22.6.2007 and 30.7.2008 issued under sections 4 and 6 of the Land Acquisition Act, 1894 (in short, "the Act), Annexures P.1 and P.2 respectively vide which his land had been acquired. Direction has also been sought to the respondents to

release the acquired area i.e. residential house as per Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (in short, “the 2013 Act”) as the petitioner is still in possession as per revenue record.

3. A few facts relevant for the decision of the controversy involved as narrated in the petition may be noticed. The petitioner had constructed his industrial shed/staff quarter in which 10-15 persons as labour are employed and their industrial quarters exist on the said land measuring 17 kanals 17 marlas. The petitioner is in physical possession of the land in question and has constructed residential house thereon. Notification under Section 4 of the Act was issued by respondent No.1 on 20.6.2007, Annexure P.1 for a public purpose namely for the development of industrial Sector 38 in the revenue estate of Villages Badh Malik, Badkhalsa, Jatheri, Liwan, Pritampura and Rai of Tehsil and District Sonapat. The petitioner filed objections under Section 5A of the Act. According to the petitioner, without considering his objections, notification under Section 6 of the Act was issued by the respondent-authorities on 30.7.2008, Annexure P.2. Construction of residential house is prior to issuance of notification under section 4 of the Act. The petitioner also filed representation dated 15.12.2014, Annexure P.4 for release of his land in view of section 24(2) of the 2013 Act but no action was taken. Hence the instant writ petition.

4. We have heard learned counsel for the petitioner.

5. It is the admitted position that the land of the petitioner was acquired in the year 2007 for a public purpose, namely, for the development of industrial Sector 38 in the revenue estate of certain villages of Tehsil and

district Sonapat. The petitioner is challenging the acquisition proceedings through the present writ petition in the year 2015 after a lapse of eight years. Even the claim of the petitioner under Section 24(2) of the 2013 Act cannot be accepted as the award was announced on 26.8.2009. It would be expedient to refer to Section 24(2) of the 2013 Act, which is in the following terms:-

“24. (2) Notwithstanding anything contained in sub-section (1), in case of land acquisition proceedings initiated under the Land Acquisition Act, 1894, where an award under the said section 11 has been made five years or more prior to the commencement of this Act but the physical possession of the land has not been taken or the compensation has not been paid the said proceedings shall be deemed to have lapsed and the appropriate Government, if it so chooses, shall initiate the proceedings of such land acquisition afresh in accordance with the provisions of this Act:

Provided that where an award has been made and compensation in respect of a majority of land holdings has not been deposited in the account of the beneficiaries, then, all beneficiaries specified in the notification for acquisition under section 4 of the said Land Acquisition Act, shall be entitled to compensation in accordance with the provisions of this Act.”

6. A plain reading of the aforesaid provision clearly spells out that it is applicable in those cases where the award is announced five years or more prior to coming into force of 2013 Act. The award having been announced in the present case on 26.8.2009 does not satisfy the essential requirements of Section 24(2) of the 2013 Act. Learned counsel for the petitioner has not been able to substantiate that the petitioner has any claim under Section 24(2) of the 2013 Act. Further, a perusal of the award shows that appropriate compensation has been given to the petitioner for the land,

shed, building and structure etc. Consequently, finding no merit in the petition, the same is hereby dismissed.

(Ajay Kumar Mittal)
Judge

August 5, 2015
'gs'

(Darshan Singh)
Judge