

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 13071 of 2015

Date of Decision: 3.7.2015

Dharam Pal and others

....Petitioners.

Versus

State of Haryana and others

...Respondents.

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

PRESENT: Mr. Sandeep Sharma, Advocate for the petitioners.

AJAY KUMAR MITTAL, J.

1. By way of instant petition filed under Articles 226/227 of the Constitution of India, the petitioners have prayed for issuance of a writ in the nature of mandamus directing the respondents to release their house 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") as the respondents have released the land of the other persons in the same village Kanhai from the same award vide orders dated 18.12.2002 (Annexure P-4), dated 26.6.2012 (Annexure P-5) and dated 22.8.2012 (Annexure P-6).

2. The petitioners are owners in possession of the land situated within the revenue estate of village Kanhai, Tehsil and District Gurgaon and have constructed residential houses and cattle sheds thereon. Government of Haryana vide notification dated 20.4.1990 (Annexure P-2) issued under Section 4 of the Land Acquisition Act, 1894

(in short "the Act") followed by notification dated 18.4.1991 (Annexure P-3) under Section 6 of the Act, acquired the land for the public purpose, i.e. for residential, commercial, institutional area, recreational zone and open space in Sectors 44, 45 and 46 at Gurgaon. The petitioners filed objections under Section 5-A of the Act. The award was passed on 23.3.1993. The petitioners have submitted their application for releasing their property from acquisition and the respondents have released the property of other landowners after passing of the award in the same village and from the same notifications vide release orders dated 18.12.2002 (Annexure P-4), dated 26.6.2012 (Annexure P-5) and dated 22.8.2012 (Annexure P-6). The petitioners filed CWP No. 20448 of 2014 which was disposed of by this Court with a direction to the respondents to take a decision on their representation within a period of three months. Thereafter, they filed CWP No. 2949 of 2015 which was dismissed as withdrawn by this Court with liberty to file a fresh one. They are still in physical possession of the land in dispute and no compensation has been paid to them. 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 petitioners submitted that the petitioners are in physical possession of the land in dispute and compensation has not been paid to them. 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 petitioners 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 petitioners, 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 petitioners 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 petitioners 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 them within a period of four months from the date of receipt of representation. The petitioners shall be entitled to lead any evidence to substantiate their 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 3, 2015
gbs

(REKHA MITTAL)
JUDGE