

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 14093 of 2015

Date of Decision: 16.7.2015

Tejbir Rathee and others

....Petitioners.

Versus

The State of Haryana and others

...Respondents.

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

PRESENT: Mr. Saurabh Dalal, Advocate for the petitioners.

AJAY KUMAR MITTAL, J.

1. In this petition filed under Articles 226/227 of the Constitution of India, the petitioners have prayed for issuance of a writ in the nature of certiorari for quashing the notifications dated 23.2.1989 (Annexure P-1) issued under Section 4 of the Land Acquisition Act, 1894 (in short "the Act"), dated 22.2.1990 (Annexure P-2) under Section 6 of the Act and the notice dated 7.7.2015 (Annexure P-5). Further, a writ of mandamus has been sought directing the respondents to consider the case of the petitioners for release of the land 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 land of the petitioners measuring 176.55 acres was acquired by the Government of Haryana vide notification dated 23.2.1989 (Annexure P-1) issued under Section 4 of the Act followed by

notification dated 22.2.1990 (Annexure P-2) under Section 6 of the Act for residential and commercial purpose for setting up Sector 17, Panipat. The award was passed on 21.2.1992. The petitioners filed CWP No. 18740 of 1991 challenging the acquisition proceedings which was dismissed by this Court vide order dated 18.5.2011. Feeling aggrieved, they filed SLP against the said order dated 18.5.2011 and the Supreme Court vide order dated 31.10.2011 dismissed the said SLP. One of the petitioners whose land was partially released filed CWP No. 23413 of 2013 to speed up the process of development pursuant to the acquisition which was disposed of by this Court vide order dated 24.10.2013 (Annexure P-3) with a direction to the respondents to take necessary action. The petitioners are still in physical possession of the land in question and have not withdrawn the compensation till date. 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for the petitioners submitted that the petitioners are in physical possession of the land in dispute and have not withdrawn the compensation. 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 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 16, 2015
gbs

(REKHA MITTAL)
JUDGE