

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 14910 of 2014

Date of Decision: 15.7.2015

Smt. Rajbala 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: Dr. Surya Parkash, Advocate for the petitioners.

Mr. Sudeep Mahajan, Addl. Advocate General, Haryana.

Mr. Som Nath Saini, Advocate for respondent No.3.

AJAY KUMAR MITTAL, J.

1. Through the 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 seeking direction to the effect that the acquisition process issued vide notifications dated 5.5.1997 (Annexure P-1) under Section 4 of the Land Acquisition Act, 1894 (in short “the Act”), dated 4.5.1998 (Annexure P-2) under Section 6 of the Act and the award dated 3.5.2000 (Annexure P-3) shall be deemed to have lapse, qua the land of the petitioners 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. Government of Haryana vide notification dated 5.5.1997

(Annexure P-1) issued under Section 4 of the Act followed by notification dated 4.5.1998 (Annexure P-2) under Section 6 of the Act, acquired the land of Wazirabad including the land of the petitioners for the development of residential, commercial and industrial area, Sector 52, Gurgaon. The award was passed on 3.5.2000 (Annexure P-3). Respondent No.2 submitted a report dated 30.1.2008 (Annexure P-5) qua the land of the petitioners to the Director, Urban Estate, Panchkula, mentioning therein that since the petitioners had not filed objections, therefore, the construction on their land could not be recorded. The Administrator, Haryana Urban Development Authority, Gurgaon had written a letter dated 8.8.2008 (Annexure P-6) to the Director, Urban Estate, Panchkula that as per the revenue record, *gair mumkin* houses exist on khasra No.575 of village Wazirabad and the petitioners are residing in the structure existing at site. However, vide order dated 8.10.2008 (Annexure P-7), a part of land of the petitioners was released but 900 square yard land was not released. Petitioner No.1 moved a representation, Annexure P-8, to the Chief Minister, Haryana for release of her remaining land measuring 900 square yards, upon which a report dated 13.5.2013 (Annexure P-9) was made to the Senior Town Planner that she was having a girder stone construction on an area measuring 2323.57 square feet and tin shed over an area measuring 1908.50 square feet at the site which was being used for residential purposes. Respondent No.2 submitted a report dated 7.6.2013 (Annexure P-10) to the Director General, Urban Estate, Panchkula that petitioner No.1 has constructed four rooms and she has not received the compensation amount. The petitioners 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 the 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 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 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 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 15, 2015
gbs

(REKHA MITTAL)
JUDGE