

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 14766 of 2015

Date of Decision: 23.7.2015

M/s Periwal Enterprises (P) Ltd., New Delhi

....Petitioner.

Versus

State of Haryana and others

...Respondents.

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

PRESENT: Mr. Shiv Kumar, Advocate for the petitioner.

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 certiorari for quashing the notifications dated 26.12.1988 (Annexure P-1) issued under Section 4 of the Land Acquisition Act, 1894 (in short "the Act"), dated 22.12.1989 (Annexure P-2) under Section 6 of the Act and the award dated 19.12.1991 (Annexure P-2A), 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 petitioner is owner of the land measuring 3 kanal 19 marlas situated within the revenue estate of village Jharsantly, Tehsil Ballabgarh, District Faridabad which was purchased vide sale deed dated 24.7.1982 and mutation thereof was also sanctioned in its favour. Government of Haryana vide notification dated 26.12.1988 (Annexure P-

1) issued under Section 4 of the Act followed by notification dated 22.12.1989 (Annexure P-2) under Section 6 of the Act, acquired the land including the land of the petitioner for the development and utilization of land for Sector 58, Industrial Area, Faridabad. The award was passed on 19.12.1991 (Annexure P-2A). The petitioner filed CWP No. 3369 of 1992 challenging the said notifications. One Phool Chand whose land is adjoining to the land of the petitioner also filed CWP No. 3894 of 1992. Both the said writ petitions were disposed of vide order dated 12.5.2002 (Annexure P-3) by the Lok Adalat of this Court ordering for the release of the land in question. State of Haryana filed an application for deciding the writ petition of the petitioner on merits. This Court vide order dated 29.9.2008 (Annexure P-4) disposed of the writ petition with liberty to the petitioner to approach respondent No.1 by way of an application under Section 48 of the Act to consider whether its land could be released from acquisition. In pursuance thereto, the petitioner filed representations including representation dated 9.2.2012 (Annexure P-5) for release of the land in question. Again the petitioner moved a representation dated 12.6.2014 (Annexure P-7) for release of the land in question, but no response has been received till date. The petitioner is still in physical possession of the land in question. No compensation has been paid to the petitioner. According to the petitioner, 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 petitioner submitted that the petitioner is still in physical possession of the land in question and compensation has not been paid to it. 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 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 petitioner, 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 its claim before the concerned authority. 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 23, 2015
gbs

(REKHA MITTAL)
JUDGE