

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 15075 of 2015

Date of Decision: 27.7.2015

Babu Lal Saini 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. Sanjay Mittal, 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 23.1.1990 (Annexure P-1) issued under Section 4 of the Land Acquisition Act, 1894 (in short "the Act"), dated 22.1.1991 (Annexure P-2) under Section 6 of the Act and the award dated 25.3.1992 (Annexure P-5) vide which their land was acquired. Further, a writ of mandamus has been sought directing respondents No.1 to 3 not to acquire the land of the petitioners as the acquisition proceedings have lapsed 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. As per the averments made in the writ petition, Thawar

Singh was owner in possession of the land measuring 61 kanal 5 marlas to the extent of 1/2 share situated within the revenue estate of village Rewari, Tehsil and District Rewari and in the year 1970, built a katcha residential house on a plot measuring 3 kanal 18 marlas. The respondent-department issued notification dated 21.1.1982 for acquisition of land including the land of said Thawar Singh. The award was passed regarding the land measuring 61 kanal 5 marlas jointly owned by Thawar Singh and others. However, out of the total land of 61 kanal 5 marlas only 8 kanal and 9 marlas of land belonging to Thawar Singh jointly with others was acquired while the notification qua the rest of the land of Thawar Singh was allowed to lapse. In the year 1984, Thawar Singh raised pucca construction on the area measuring 3 kanal 18 marlas. Government of Haryana issued a notification dated 23.1.1990 (Annexure P-1) under Section 4 of the Act followed by notification dated 22.1.1991 (Annexure P-2) under Section 6 of the Act for acquisition of land including the land of Thawar Singh for the development and utilization of land as residential and commercial, Sector 3 Part, Rewari. Objections under Section 5-A of the Act to the said notifications were filed. Thawar Singh filed CWP No. 421 of 1992 challenging the said notifications. During the pendency of the said writ petition, Thawar Singh had died and the petitioners being his legal heirs were brought on the record. The said writ petition was disposed of by this Court along with CWP No. 420 of 1992 vide orders dated 30.8.2013 (Annexures P-3 and P-4, respectively). In pursuance thereto, the petitioners approached the respondents for complying with the directions of this Court, but to no effect. Thereafter, they filed COCP No. 533 of 2015 which is pending. The award was passed on 25.3.1992 (Annexure

P-5). They are still in physical possession of the land in question. 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 received by 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 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 27, 2015
gbs

(REKHA MITTAL)
JUDGE