

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 15793 of 2014

Date of Decision: 16.7.2015

Shiv Kumar 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. R.S. Duggal, Advocate for the petitioners.

Ms. Palika Monga, Deputy Advocate General, Haryana.

Mr. Naveen Batra, Advocate for respondent No.3.

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 26.12.1988 (Annexure P-5) issued under Section 4 of the Land Acquisition Act, 1894 (in short "the Act"), dated 22.12.1989 (Annexure P-6) under Section 6 of the Act and the award dated 16.12.1991 (Annexure P-7), 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 respondent-State proposed to acquire the land of the petitioners way back in the year 1975 but after conducting the survey, the acquisition proceedings were dropped. Again in the year 1981, the

respondent-State sought to acquire the land in question but on finding construction having been raised thereon, the acquisition proceedings were dropped. Government of Haryana again issued a notification dated 26.12.1988 (Annexure P-5) under Section 4 of the Act followed by notification dated 22.12.1989 (Annexure P-6) under Section 6 of the Act for acquisition of land including the land of the petitioners. The petitioners filed objections under Section 5-A of the Act. The award was passed on 16.12.1991 (Annexure P-7). Smt. Parbati Devi, who was owner of the land, filed CWP No. 15755 of 1992 challenging the said notifications which was partly allowed by this Court vide order dated 18.1.2011 (Annexures P-8 and P-9, respectively). Respondent No.2 vide order dated 6.1.2012 (Annexure P-10) rejected the claim of the petitioners. The petitioners challenged the said order by way of CWP No. 12719 of 2013 which was disposed of by this Court vide order dated 8.7.2013 (Annexure P-11). During the pendency of CWP No. 12719 of 2013, the District Magistrate vide order dated 30.5.2013 (Annexure P-12) appointed Shri Arvind Malhan, Estate Officer, Faridabad as Duty Magistrate for demolition of the constructed area on the land of the petitioners. Thereafter, the respondents carried out the demarcation proceedings and vide order dated 21.11.2013 (Annexure P-13) decided that no further action was required to be taken. The said order, Annexure P-13, was challenged by the petitioner by filing CWP No. 27874 of 2013 and the said writ petition was dismissed by this Court vide order dated 18.12.2013 (Annexure P-14) with liberty to the petitioners either to approach the authorities for redressal of their grievances or to approach other appropriate forum. 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 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 16, 2015
gbs

(REKHA MITTAL)
JUDGE