

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 1565 of 2015

Date of Decision: 28.7.2015

Smt. Ishwar Devi

....Petitioner.

Versus

State of Haryana and another

...Respondents.

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

PRESENT: Mr. Gaurav Mohunta, Advocate for the petitioner.

Mr. Sudeep Mahajan, Addl. Advocate General, Haryana with
Mr. Pawan Kumar Jhanda, AAG, Haryana.

AJAY KUMAR MITTAL, J.

1. Through the instant 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 27.1.2003 (Annexure P-2) issued under Section 4 of the Land Acquisition Act, 1894 (in short "the Act"), dated 23.1.2004 (Annexure P-3) under Section 6 of the Act and the award dated 20.1.2006 (Annexure P-4) 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 in cultivating possession of the land measuring 1 kanal situated in village Dhaliawas, Tehsil and District Rewari. Government of Haryana vide notification dated 27.1.2003

(Annexure P-2) issued under Section 4 of the Act followed by notification dated 23.1.2004 (Annexure P-3) under Section 6 of the Act, acquired the land including the land of the petitioner for the development and utilization of land for residential and commercial Sectors 18, 19 and 20 Part, commercial Sector 17 Part, Rewari. The petitioner filed objections under Section 5-A of the Act. The award was passed on 20.1.2006 (Annexure P-4). The petitioner is still in physical possession of the land in question and would refund the amount of compensation received by her. 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 would refund the amount of compensation received by her. 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 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 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 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 her 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 28, 2015
gbs

(REKHA MITTAL)
JUDGE