

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 16283 of 2015

Date of Decision: 7.8.2015

M/s M.M. Aqua Technologies Ltd., Khandsa, Gurgaon

....Petitioner.

Versus

State of Haryana and others

...Respondents.

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

PRESENT: Mr. Kamal Sehgal, 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 15.11.2002 (Annexure P-2) issued under Section 4 of the Land Acquisition Act, 1894 (in short "the Act"), dated 12.11.2003 (Annexure P-3) under Section 6 of the Act, the award dated 18.11.2005 (Annexure P-4), the supplementary award dated 5.5.2015 (Annexure P-12) and the letter dated 8.6.2015 (Annexure P-11) whereby the land of the petitioner has been acquired, 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 purchased the land measuring 7.09375 acres situated in village Khandsa, District Gurgaon for a sale consideration of

₹ 38,30,625/- vide registered sale deed dated 7.9.1989 and mutation thereof was sanctioned in its favour. The petitioner obtained permission for change of land use from respondent No.1 which was granted vide letter dated 18.5.1990 (Annexure P-1). Government of Haryana vide notification dated 15.11.2002 (Annexure P-2) issued under Section 4 of the Act followed by notification dated 12.11.2003 (Annexure P-3) under Section 6 of the Act, acquired the land of various villages including the land of the petitioner for industrial, institutional, scientific, entertainment and other public utilities. The award was passed on 18.11.2005 (Annexure P-4). The petitioner challenged the acquisition by filing CWP No. 18610 of 2005 and this Court vide order dated 5.12.2005 (Annexure P-5) while issuing notice of motion, stayed its dispossession. Subsequently, the said writ petition was allowed by this Court vide order dated 22.12.2009 (Annexure P-6) with a direction to the respondents to issue necessary release order in respect of the land of the petitioner within a reasonable time. The petitioner filed Review Application No. 245 of 2011 in the said writ petition pleading that in the order, Annexure P-6, it was not mentioned that the petitioner is entitled to the compensation of the land which has not been released from acquisition. This Court vide order dated 15.7.2011 dismissed the said review application. The Director, Industries and Commerce, Haryana, vide order dated 24.6.2010 (Annexure P-7) released the land of the petitioner measuring 10 bigha 5 biswas out of total land measuring 11 bigha 15 biswa and 10 biswani. The petitioner made representations (Annexure P-8 Colly) for the payment of compensation, but to no effect. However, the petitioner received a letter dated 17.4.2015 (Annexure P-9) that the award for the structure would be pronounced on 5.5.2015. Thereafter,

the petitioner wrote a letter dated 28.5.2015 (Annexure P-10) to respondent No.3 for the amount of compensation in view of 2013 Act. Vide letter dated 8.6.2015 (Annexure P-11), respondent No.3 informed the petitioner that the supplementary award has been passed on 5.5.2015 (Annexure P-12). The petitioner is still in physical possession of the land in question and no compensation has been paid to it. 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. 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

August 7, 2015
gbs

(REKHA MITTAL)
JUDGE