

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 17524 of 2014

Date of Decision: 20.7.2015

M/s O.D. Properties Private Ltd., New Delhi and another
....Petitioners.

Versus

State of Haryana and others
...Respondents.

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

PRESENT: Mr. Puneet Bali, Senior Advocate with
Mr. Ranjit Saini, Advocate for the petitioners.

Ms. Palika Monga, Deputy Advocate General, Haryana.

Mr. Charanji Lal, Advocate for
Mr. Kamal Sehgal, Advocate for respondent No.2.

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 29.1.2003 (Annexure P-4) issued under Section 4 of the Land Acquisition Act, 1894 (in short "the Act") and dated 28.1.2004 (Annexure P-5) under Section 6 of the Act qua their land measuring 57 kanal 14 marlas situated within the revenue estate of village Harsaru, Tehsil and District Gurgaon 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. Government of Haryana issued a notification dated 29.1.2003 (Annexure P-4) under Section 4 of the Act followed by notification dated 28.1.2004 (Annexure P-5) under Section 6 of the Act for acquisition of land including the land of the petitioners for set up an industrial complex to be planned and developed as “Special Economic Zone”, Phase I, within the revenue estate of villages Khandsa, Narsinghpur, Mohammadpur, Jharsa, Garoli Khurd and Harsaru, Tehsil and District Gurgaon to be developed by Haryana State Industrial Development Corporation Ltd. Petitioner No.2 filed objections (Annexure P-6) under Section 5-A of the Act. Respondent No. 3 after visiting the school, made recommendations for release of the land. Petitioner No.2 made a representation dated 1.10.2004 (Annexure P-7) for de-acquisition of land. Petitioner No.2 also written a letter dated 13.11.2003 (Annexure P-8) to the District Primary Education Officer, Gurgaon for registration of the existing school who granted permission vide letter dated 25.8.2004 (Annexure P-9) to petitioner No.2. 'A' class construction was raised in the year 2001, prior to the issuance of notification under Section 4 of the Act. The compensation has not been disbursed to the petitioners as depicted in the letter dated 5.8.2014 (Annexure P-11) sent by respondent No.3 to petitioner No.1. The petitioners filed CWP No. 7390 of 2004 for quashing the notifications issued under Sections 4 and 6 of the Act and this Court vide order dated 22.9.2005 (Annexure P-12) disposed of the said writ petition with a direction to the respondents to re-adjudicate the claim of the petitioners in terms of communication dated 4.8.2004. In pursuance thereto, the committee constituted to hear the representation of the petitioners vide

report dated 8.2.2006 (Annexure P-13) informed the petitioners that the State Government had agreed to partly release the land in question. The petitioners filed another CWP No. 4417 of 2006 challenging the notifications issued under Sections 4 and 6 of the Act and the report dated 8.2.2006 (Annexure P-13). The award was passed on 27.1.2006 (Annexure P-14). During the pendency of the said writ petition, the petitioners filed transfer petitioner No. 406 of 2008 before the Supreme Court and the Supreme Court vide order dated 3.12.2008 (Annexure P-15) transferred the said writ petition before the Apex Court. They are still in physical possession of the land in question. The amount of compensation is lying deposited with respondent No.3. 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 the amount of compensation is lying deposited with respondent No.3 and has not been paid to them. It was claimed that in such circumstances, the notifications issued under Sections 4 and 6 of the Act for acquisition have lapsed, in view of Section 24(2) of the 2013 Act.

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 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 20, 2015
gbs

(REKHA MITTAL)
JUDGE