

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 17712 of 2014

Date of Decision: 21.4.2015

Monu Yadav and others

...Petitioners.

Versus

State of Haryana and others

...Respondents.

**CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MR. JUSTICE SHEKHER DHAWAN.**

PRESENT: Ms. Shivani Sharma, Advocate for
Ms. Gargi Kumar, Advocate for the petitioners.

Mr. Sudeep Mahajan, Addl. Advocate General, Haryana.

Mr. A.K. Kansal, Advocate for respondent-HUDA.

AJAY KUMAR MITTAL, J.

1. The petitioners have approached this Court by way of instant petition filed under Articles 226/227 of the Constitution of India, praying for issuance of a writ in the nature of mandamus directing the respondents to release their land 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"). Further, a prayer has been made for issuance of a writ of certiorari for quashing the notifications dated 20.4.1990 (Annexure P-3) issued under Section 4 of the Land Acquisition Act, 1894 (in short "the Act") and dated 18.4.1991 (Annexure P-4) under Section 6 of the Act as the substantial portion of the acquired land has been released after passing of the

award dated 23.3.1993 (Annexure P-5).

2. As per the averments made in the petition, the petitioners are owners in possession of the land measuring 9 kanal 18 marlas situated in village Kanhai, Tehsil and District Gurgaon. They have constructed their house on the land in question prior to the issuance of notification under Section 4 of the Act. The respondents issued a notification dated 20.4.1990 (Annexure P-3) under Section 4 of the Act followed by notification dated 18.4.1991 (Annexure P-4) under Section 6 of the Act for acquisition of the land for a public purpose, i.e. for the development and utilization of land for residential and commercial Sector. The award was passed on 23.3.1993 (Annexure P-5). The respondents vide release orders dated 18.12.2002 (Annexure P-6), dated 22.8.2012 (Annexure P-7) and dated 26.6.2012 (Annexure P-8) released the surroundings and other pieces of land adjacent to the land of the petitioners. The petitioners approached the authorities for the release of their land but to no effect. 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 as the possession of the land has not been taken. 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.

(AJAY KUMAR MITTAL)
JUDGE

April 21, 2015
gbs

(SHEKHER DHAWAN)
JUDGE