

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 1725 of 2015

Date of Decision: 5.8.2015

Smt. Chameli Devi and others

....Petitioners.

Versus

The State of Haryana and others

...Respondents.

**CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MR. JUSTICE DARSHAN SINGH.**

PRESENT: Mr. Jaswant Jain, Advocate for the petitioners.

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

Mr. Deepak Manchanda, Advocate for respondents No.2&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 1.9.1997 (Annexure P-2) issued under Section 4 of the Land Acquisition Act, 1894 (in short "the Act"), dated 29.8.1998 (Annexure P-3) under Section 6 of the Act and the award dated 28.8.2000 (Annexure P-6), having 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. The petitioners are owners in possession of the land situated within the revenue estate of village Chouma, District Gurgaon.

Government of Haryana issued a notification dated 1.9.1997 (Annexure P-2) under Section 4 of the Act followed by notification dated 29.8.1998 (Annexure P-3) under Section 6 of the Act for acquisition of land including the land of the petitioners for the development and utilization of land as residential, commercial and institutional, Sectors 1 and 2, Gurgaon. The petitioners along with others filed CWP No. 9233 of 2000 challenging the said notifications. In the said writ petition while issuing notice of motion, their dispossession was stayed by this Court vide order dated 26.7.2000 (Annexure P-4) which was later on admitted and interim order was ordered to continue vide order dated 23.9.2003 (Annexure -5). The award was passed on 28.8.2000 (Annexure P-6). The Zonal Committee for acquisition of land in Urban Estate in respect of village Chouma visited the site to be acquired on 20.7.2000 and made observation in its report dated 31.7.2000 (Annexure P-7) that the Government may consider excluding the land from acquisition as there is thick construction upon it and the HUDA cannot potentially utilize it on its own. This Court vide order dated 31.10.2013 (Annexure P-8) disposed of the said writ petition directing the respondents to release the land wherein construction is existing irrespective of nature of construction and date of construction. The petitioners 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

August 5, 2015
gbs

(DARSHAN SINGH)
JUDGE