

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CM No. 9781 of 2015 and
CWP No. 18100 of 2014

Date of Decision: 5.8.2015

Karamvir and others

....Petitioners.

Versus

State of Haryana and others

...Respondents.

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

PRESENT: Mr. Pawan Kumar, Senior Advocate with
Mr. Anshuman Mandhar, Advocate for the petitioners.

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

AJAY KUMAR MITTAL, J.

CM No. 9781 of 2015

Application is allowed as prayed for and the rejoinder and Annexures P-13 and P-14 are taken on record subject to all just exceptions.

CWP No. 18100 of 2014

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 mandamus directing the respondents to release their constructed houses 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 writ of certiorari has been sought for quashing the notifications dated 26.2.2002 (Annexure P-4) issued under Section 4 of the Land Acquisition Act, 1894 (in short "the Act"), dated 18.11.2002 (Annexure P-5) under Section 6 of the Act and the award dated 20.5.2004 (Annexure P-6) qua the land of the petitioners and for quashing the order dated 5.8.2014 (Annexure P-11) vide which the only residential house of the petitioners along with their vacant land has been ordered to be acquired and demolished.

2. The petitioners are owners in possession of the land measuring approximately 4000 square yards situated within the revenue estate of village Dhana, Tehsil and District Gurgaon. Government of Haryana issued a notification dated 26.2.2002 (Annexure P-4) under Section 4 of the Act followed by notification dated 18.11.2002 (Annexure P-5) under Section 6 of the Act for acquisition of land of various villages including the land of the petitioners for the purpose of setting up Industrial Model Township, Manesar, Phase IV, Tehsil and District Gurgaon. The award was passed on 20.5.2004 (Annexure P-6). The petitioners made a representation dated 3.9.2008 (Annexure P-7) to the Chief Minister, Haryana for exempting their houses from acquisition. Thereafter, another representation dated 3.4.2009 (Annexure P-8) to the Chief Minister, Haryana which was marked to the competent authority for necessary action. In pursuance thereto, the land measuring 1445 square meter was released by the respondents. The Assistant Town Planner vide order dated 5.8.2014 (Annexure P-11) ordered that only 500 square meter for the residential use of family of Shaheed Sandeep Singh be allotted to him with a rider that no construction would be done by the Corporation. The open area has also been left out in plot No. 142 to be

developed as park in the name of Shaheed Sandeep Singh Park and plot Nos. 142-143 in which residential houses of the petitioners are constructed have been ordered to be retained by the Corporation and construction over it has been ordered to be demolished inspite of the fact that in the same situation the house of the family of said Sandeep Singh has earlier been exempted and now an adjoining plot has been allotted to them. The order dated 5.8.2014 (Annexure P-11) has not been served upon the petitioners. However, they were informed that their houses would be demolished and possession would be taken. 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