

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 18411 of 2014

Date of Decision: 30.3.2015

Anil Dutt 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
Ms. Monika Thakur, Advocate for the petitioners.

Ms. Palika Monga, Deputy Advocate General, Haryana.

Mr. Ajay Nara, Advocate for respondent No.5.

AJAY KUMAR MITTAL, J.

1. By way of instant 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 not to act upon notifications dated 17.11.2005 (Annexure P-1) issued under Section 4 of the Land Acquisition Act, 1894 (in short "the Act") and dated 7.2.2006 (Annexure P-2) under Section 6 of the Act qua the land of the petitioners 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. As per the averments made in the petition, initially the land of the petitioners measuring 32 kanal 13 marlas was acquired by the

respondents in pursuance of notification dated 17.11.2005 (Annexure P-1) issued under Section 4 of the Act followed by notification dated 7.2.2006 (Annexure P-2) under Section 6 of the Act. The petitioners challenged the said acquisition proceedings by way of CWP No. 1909 of 2009. During the pendency of the said writ petition, the Land Acquisition Collector filed an affidavit dated 1.9.2009 pleading that the land falling in rectangle and killa No. 15/12 (8-0) was within the acquisition boundary given by the District Town Planner, Sonapat and rest of the khasra/killa numbers were inadvertently acquired and falling outside the acquisition boundary by the District Town Planner, Sonapat. The Financial Commissioner-cum-Principal Secretary, Chandigarh vide its letter dated 29.4.2010 wrote to respondent No.5 for release of rest of the land of the petitioners. Accordingly, the land of the petitioners except khasra No. 15/12 measuring 8 kanal was released from the acquisition. The said writ petition was dismissed as not pressed by this Court vide order dated 3.5.2010. The total land measuring 2006.50 acres was acquired including the land of the petitioners for the public purpose, namely, for the development and utilization of land as commercial, institutional and residential area for Sectors 65 to 68, Sonapat. The award was passed on 2.3.2006 assessing the market value of the acquire land at the rate of ₹ 12,50,000/- per acre for every kind of land, i.e. Chahi/Nehri/Banjar/Barani/Gairmumkin and adjacent to the road besides statutory benefits, i.e., solatium and additional charge. Against the said award, the petitioners filed references under Section 18 of the Act for enhancement of compensation of the acquired land. The reference court vide order dated 14.12.20013 assessed the market value at ₹ 28 lacs per acre falling in revenue estate of Sevli and ₹ 32 lacs per acre for the land

falling in the revenue estate of Asawarpur and Badhkhalsa. The petitioners were held entitled to solatium at the rate of 30% under Section 23(2) of the Act and additional amount at the rate of 12% per annum from the date of publication of notification under Section 4 of the Act till the date of award or taking over the possession of the land whichever was earlier under Section 23(1A) of the Act along with interest under Section 28 of the Act. Feeling aggrieved, the petitioners filed RFA No. 7258 of 2014 in this Court. According to the petitioners, the acquisition proceedings have lapsed in view of Section 24(2) of the 2013 Act as neither the possession of the land has not been taken nor compensation has been paid to them. 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

March 30, 2015
gbs

(REKHA MITTAL)
JUDGE