

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 1776 of 2015

Date of Decision: 8.7.2015

Phoolwati and others

....Petitioners.

Versus

State of Haryana and others

...Respondents.

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

PRESENT: Mr. Sandeep Sharma, Advocate for the petitioners.

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

Mr. Lokesh Sinhal, Advocate for respondent No.3.

Mr. Som Nath Saini, Advocate for respondent No.6.

AJAY KUMAR MITTAL, J.

1. Short reply by way of affidavit of Shri Devender Pal Singh, Divisional Town Planner, HSIIDC, C-13 and 14, Sector 6, Panchkula filed today in Court is taken on record subject to all just exceptions.

2. 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 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").

3. The petitioners are owners in possession of the land measuring 3 bigha 3 biswas situated within the revenue estate of village

Khandsa, Tehsil and District Gurgaon. Government of Haryana vide notification dated 16.12.1988 (Annexure P-1) issued under Section 4 of the Land Acquisition Act, 1894 (in short "the Act") followed by notification dated 14.12.1989 (Annexure P-2) under Section 6 of the Act, acquired the land of the petitioners for the development of industrial Sector 37, Part II, Gurgaon. The award was passed on 12.12.1991 (Annexure P-3). Respondent No.6 vide notification dated 29.1.2003 (Annexure P-4) issued under Section 4 of the Act followed by notification dated 28.1.2004 (Annexure P-5) under Section 6 of the Act acquired the said land for setting up industrial complex as special economic zone, Phase-I, in village Khandsa. The award was passed on 27.1.2006 (Annexure P-6). The petitioners are still in physical possession of the land in dispute. They have received the amount of compensation but they are ready to refund the same along with interest. According to the petitioners, the acquisition proceedings have lapsed in view of Section 24(2) of the 2013 Act. Hence, the present writ petition.

4. Learned counsel for the petitioners submitted that the petitioners are in physical possession of the land in dispute. They have received the amount of compensation but they are ready to refund the same along with interest. 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.

5. 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/ competent 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

July 8, 2015
gbs

(REKHA MITTAL)
JUDGE