

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 18694 of 2014

Date of Decision: 30.7.2015

Santosh Kumari 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. M.L. Sharma, Advocate for the petitioners.

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

Mr. Ajay Nara, Advocate for respondents No.3 to 5.

AJAY KUMAR MITTAL, J.

1. Through the 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 certiorari for quashing the notifications dated 31.12.1982 (Annexure P-1) issued under Section 4 of the Land Acquisition Act, 1894 (in short “the Act”), dated 9.11.1983 (Annexure P-3) and the award dated 17.1.1984 (Annexure P-4) whereby their land situated within the revenue estate of village Salokhara, Tehsil and District Gurgaon was acquired. Further, a writ of mandamus has been sought for declaring the acquisition proceedings as 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 of the land measuring 1 bigha 14 biswas to the extent of 1/32 share, situated within the revenue estate of Salokhara, Tehsil and District Gurgaon. Government of Haryana vide notification dated 31.12.1982 (Annexure P-1) issued under Section 4 of the Act followed by notification dated 9.11.1983 (Annexure P-3) under Section 6 of the Act, acquired the land including the land of the petitioners. The petitioners filed objections, Annexure P-2, under Section 5-A of the Act. The award was passed on 17.1.1984 (Annexure P-4). The petitioners moved representations dated 11.1.2012, 15.2.2013 and 2.2.2014 (Annexure P-16 Colly) for release of the land, but to no effect. They are still in physical possession of the land in dispute and 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 comprehensive 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

July 30, 2015
gbs

(REKHA MITTAL)
JUDGE