

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 19228 of 2014

Date of Decision: 19.5.2015

Hoshiyari Devi 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. Ram Bilas Gupta, Advocate for the petitioners.

Ms. Palika Monga, Deputy Advocate General, Haryana.

Mr. J.P. Bhatt, Advocate for respondent No.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 4.1.2002 (Annexure P-3) issued under Section 4 of the Land Acquisition Act, 1894 (in short "the Act"), dated 31.12.2002 (Annexure P-4) under Section 6 of the Act and award dated 29.12.2004 (Annexure P-10) whereby the land of the petitioners was acquired. Further, a writ of mandamus has also been sought for declaring the acquisition to have lapsed in terms 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 measuring 48 kanal 4 marlas situated within the revenue estate of village Para, Tehsil and District Rohtak. Government of Haryana vide notification dated 4.1.2002 (Annexure P-3) issued under Section 4 of the Act followed by notification dated 31.12.2002 (Annexure P-4) under Section 6 of the Act, acquired 409.14 acres of land situated within the revenue estate of villages Bohar and Para, District Rohtak for the development and utilization of the land as residential and transport communication, Sectors 4 and 5, Rohtak. The petitioners and other landowners filed objections under Section 5-A of the Act. The respondents vide letter dated 10.11.2004 released 5 acres of land. The petitioners and others challenged the said notifications by way of CWP No. 4951 of 2005 which was dismissed by this Court vide order dated 14.7.2005. On the representations moved by various landowners, the Government decided to release the land outside the black boundary of Sazra Plan of Sectors 4 and 5, Rohtak. Since the land as directed by the Government was not released, the petitioners and others filed CWP No.10187 of 2007 which was disposed of by this Court vide order dated 12.7.2007 (Annexure P-5) with liberty to the petitioners to move a representation within a period of two weeks, the same was to be decided within eight weeks thereafter. In pursuance thereto, the petitioners made a representation dated 30.7.2007 (Annexure P-6) to respondent No.1 which was rejected by respondent No.1 vide order dated 11.10.2007 (Annexure P-7). Again the petitioners filed CWP No. 17007 of 2008 for quashing the notifications in question which was dismissed as withdrawn by this Court vide order dated 19.5.2010 (Annexure P-9). The award was passed on 29.12.2004 (Annexure P-

10). 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 still 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 one month 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

May 19, 2015
gbs

(REKHA MITTAL)
JUDGE