

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 1942 of 2015

Date of Decision: 21.7.2015

Bhagmal 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. Sanjay Mittal, Advocate for the petitioners.

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

Mr. Sunil Kumar Sharma, Advocate for respondent No.3.

Mr. Pardeep Solath, Advocate for respondent No.8.

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 27.1.2003 (Annexure P-4) issued under Section 4 of the Land Acquisition Act, 1894 (in short "the Act"), dated 23.1.2004 (Annexure P-7) under Section 6 of the Act, the award dated 20.1.2006 (Annexure P-15) vide which their land was acquired, letter dated 19.1.2006 (Annexure P-8) passed by respondent No.5 vide which 4.08 acres of land has been released in favour of the private persons, notification dated 27.3.2006 (Annexure P-13) under Section 48 of the Act, license dated 31.5.2007 (Annexure P-

11) and letter dated 13.1.2011 (Annexure P-16) vide which land of the private landowners has been released.

2. Petitioners No.1 and 2 are co-owners in possession of land measuring 7 kanal 13 marlas whereas petitioner No.3 is co-owner in possession of land measuring 8 kanal 15 marlas, situated within the revenue estate of village Padiawas, Tehsil and District Rewari. The land in question is situated on Rewari-Delhi-Jaipur Road and the petitioners have constructed 'A' class houses thereon and are residing prior to the issuance of notification under Section 4 of the Act. Government of Haryana issued a notification dated 27.1.2003 (Annexure P-4) under Section 4 of the Act followed by notification dated 23.1.2004 (Annexure P-7) under Section 6 of the Act for acquisition of land including the land of the petitioners for the development and utilization of land as residential and commercial, Sectors 18, 19 and 29 Part, commercial Sector 17, Part at Rewari. Petitioners No.1 and 2 filed objections under Section 5-A of the Act upon which report, Annexure P-5, was made by respondent No.4. Petitioner No.3 filed objections under Section 5-A of the Act on 24.2.2003 (Annexure P-6). After issuance of declaration under Section 6 of the Act, respondent No.5 vide letter dated 19.1.2006 (Annexure P-8) informed the Administrator, Haryana Urban Development Authority, Gurgaon regarding release of 4.08 acres of land from the acquisition. The award was passed on 20.1.2006 (Annexure P-9). Respondent No.7 vide letter dated 13.1.2006 (Annexure P-10) released the land measuring 89.867 acres in favour of Phool Singh etc. There was some collaboration/agreement between respondent No.8 and Phool Singh etc. and respondent No.5 issued licence dated 31.5.2007 (Annexure P-11) in favour of various persons. State of Haryana released

some other land measuring 70 acres relating to villages Rewari and Dhaliawas vide notification dated 27.3.2006 (Annexure P-13) issued under Section 48 of the Act. The awards relating to villages Dhaliawas and Padiawas were passed on 20.1.2006 (Annexures P-14 and P-15, respectively). Respondent No.2 vide order dated 13.1.2011 (Annexure P-16) released the acquired relating to the private landowners. The Government vide letter dated 26.6.1991 (Annexure P-19) took a decision that they would not acquire the 'A' class constructed houses for the public purposes. The petitioners are still in physical possession of the land in question. Compensation has been received by them and they are ready to deposit the same along with interest. According to the petitioners, the acquisition proceedings have 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"). 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 are ready to deposit the compensation amount received by them 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.

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 21, 2015
gbs

(REKHA MITTAL)
JUDGE