

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 20776 of 2014

Date of Decision: 16.7.2015

Hari Dass and another

....Petitioners.

Versus

The State of Haryana and others

...Respondents.

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

PRESENT: Mr. Jagdish Manchanda, Advocate for the petitioners.

Ms. Palika Monga, Deputy Advocate General, Haryana.

Mr. Ajay Nara, Advocate for respondent No.4.

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 certiorari for quashing the notifications dated 9.9.2002 (Annexure P-3) issued under Section 4 of the Land Acquisition Act, 1894 (in short "the Act"), dated 8.9.2003 (Annexure P-4) under Section 6 of the Act and the award dated 6.9.2005 (Annexure P-5) vide which the land of the petitioners was acquired.

2. The petitioners are owners in possession of the land measuring 6 kanal 1 marla, situated within the revenue estate of Jind Town. Earlier the land of the petitioners and the adjoining land was sought to be acquired vide notification dated 8.2.1983 issued under

Section 4 of the Act whereupon the objections were filed by the residents of the area, who had raised construction of their houses and the acquisition proceedings were dropped. Government of Haryana again issued a notification dated 9.9.2002 (Annexure P-3) under Section 4 of the Act followed by notification dated 8.9.2003 (Annexure P-4) under Section 6 of the Act for acquisition of land including the land of the petitioners for the development of the residential as well as commercial area in city Jind. The petitioners filed objections under Section 5-A of the Act. The respondents have exempted the constructed houses from acquisition but the houses of the present petitioners have not been exempted. Notices under Section 9 of the Act were issued to the petitioners. The award was passed on 6.9.2005 (Annexure P-5). Claim has been made for release of the 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"), as they are in actual physical possession of the land in dispute and no compensation has been paid to them. Hence, the present writ petition.

3. Learned counsel for the petitioners submitted that the petitioner 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 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 16, 2015
gbs

(REKHA MITTAL)
JUDGE