

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 2230 of 2014

Date of Decision: 4.8.2015

Pardeep Kumar Handa and others

....Petitioners.

Versus

State of Haryana and others

...Respondents.

**CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MR. JUSTICE SHEKHER DHAWAN.**

PRESENT: Mr. M.L. Sharma, Advocate for the petitioners.

Ms. Palika Monga, Deputy Advocate General, Haryana.

Mr. Raman Gaur, Advocate for HUDA.

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 mandamus for declaring the acquisition proceedings initiated vide notifications dated 22.2.2006 (Annexure P-9) issued under Section 4 of the Land Acquisition Act, 1894 (in short “the Act”), dated 20.7.2006 (Annexure P-11) under Section 6 of the Act and the award dated 28.4.2008 (Annexure P-12) qua their land, having 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 purchased the constructed house measuring 2 kanals situated within the revenue estate of village Patti Mehar, District Ambala from Jagjit Kaur Verma vide sale deed dated 18.9.2001

(Annexure P-1) prior to the issuance of notification under Section 4 of the Act. Government of Haryana vide notification dated 22.2.2006 (Annexure P-9) issued under Section 4 of the Act followed by notification dated 20.7.2006 (Annexure P-11) under Section 6 of the Act, acquired the house of the petitioners for the development and utilization of land for residential, commercial, institutional and construction of road for Sector 8 (Pocket), Ambala City. The petitioners filed objections under Section 5-A of the Act on 1.3.2006 (Annexure P-10). The award was passed on 28.4.2008 (Annexure P-12). State Government framed the policies dated 26.10.2007 (Annexure P-13) and dated 24.1.2011 (Annexure P-14) for not acquiring the land over which the construction is prior to the notification under Section 4 of the Act and the landowners have filed objections under Section 5-A of the Act. In this regard, reliance has been placed on the letter dated 8.1.2007 (Annexure P-15) issued to all the Departments for not acquiring the land of the landowners over which the construction has been made. The petitioners made a representation, Annexure P-16, to the Chief Minister, Haryana for release of land from acquisition, but to no effect. They are still in physical possession of the land in dispute. 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. No compensation has 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

August 4, 2015
gbs

(SHEKHER DHAWAN)
JUDGE