

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 22497 of 2014

Date of Decision: 6.8.2015

Saubhagya Devi

....Petitioner.

Versus

State of Haryana and others

...Respondents.

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

PRESENT: Mr. Rajesh Sethi, Advocate for the petitioner.

Ms. Palika Monga, Deputy Advocate General, Haryana.

Mr. Padamkant Dwivedi, Advocate for respondent No.3.

AJAY KUMAR MITTAL, J.

1. By way of instant petition filed under Articles 226/227 of the Constitution of India, the petitioner has prayed for issuance of a writ in the nature of mandamus for releasing her land measuring 3 kanal 3 marlas 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"). Further, a writ of certiorari has been sought for quashing the notifications dated 15.12.2004 (Annexure P-7) issued under Section 4 of the Land Acquisition Act, 1894 (in short "the Act") and dated 9.1.2006 (Annexure P-9) under Section 6 of the Act having lapsed in view of Section 24(2) of the 2013 Act and for quashing of the order dated 16.7.2014 (Annexure P-11).

2. The petitioner is owner in possession of the land measuring 3 kanal 3 marlas and another 4 marlas purchased vide registered sale deed dated 29.10.2001 (Annexure P-1) and mutation thereof was sanctioned in her favour on 29.12.2004 (Annexure P-2). She has constructed a pucca house on the land measuring 3 kanal 3 marlas. The State of Haryana took a policy decision dated 28.8.1991 (Annexure P-6) for acquisition of land wherein it was resolved not to acquire constructed houses for public purposes. The respondents vide notification dated 15.12.2004 (Annexure P-7) issued under Section 4 of the Act followed by notification dated 9.1.2006 (Annexure P-9) under Section 6 of the Act, acquired the land including the land of the petitioner. The petitioner filed objections, Annexure P-8, under Section 5-A of the Act. She filed CWP No. 2413 of 2006 challenging the said notifications which was disposed of by this Court vide order dated 30.10.2013 (Annexure P-10) with a direction to the respondents to conduct a fresh survey after advance notice to the petitioner and on consideration of documents/proof/material relied upon by her, if the authorities are satisfied that there existed a residential house of the petitioner at the site constructed before initiation of acquisition process, an appropriate decision in accordance with the Government Policy dated 26.10.2007, shall be taken. In pursuance thereto, the petitioner through her son and representative presented all the relevant documents but the Additional Chief Secretary to Government of Haryana vide order dated 16.7.2014 (Annexure P-11) rejected her claim. The award was passed on 15.6.2007. The petitioner is still in physical possession of the land in question and no compensation has been paid to her. According to the

petitioner, 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 petitioner submitted that the petitioner is still in physical possession of the land in question and compensation has not been paid to her. 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 petitioner 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 petitioner 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 petitioner 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 the petitioner within a period of four months from the date of receipt of representation. The petitioner shall be entitled to lead any evidence to substantiate her 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 6, 2015
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(REKHA MITTAL)
JUDGE