

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 22550 of 2014

Date of Decision: 21.7.2015

Sudhir Shingla 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. Puneet Bali, Senior Advocate with
Mr. Ranjit Saini, Advocate for the petitioners.

Ms. Palika Monga, Deputy Advocate General, Haryana.

Mr. Atul Aggarwal, Advocate for respondents No.2,3,5,6 & 7.

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 mandamus directing the respondents not to act upon the notifications dated 10.5.1989 (Annexure P-20) issued under Section 4 of the Land Acquisition Act, 1894 (in short "the Act") and dated 9.5.1990 (Annexure P-22) under Section 6 of the Act qua their land measuring 33 bighas 6 biswas (33329 square yards) situated at Patti Taraf Insar, Panipat, as the same 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").

2. The petitioners are owners in possession of the land

measuring 33 bighas 7 biswas (33329 square yards) situated at Patti Taraf Insar, Panipat. Government of Haryana issued a notification dated 10.5.1989 (Annexure P-20) under Section 4 of the Act followed by notification dated 9.5.1990 (Annexure P-22) under Section 6 of the Act for acquisition of land including the land of the petitioners for the development and utilization of land as industrial, institutional, residential and commercial area for Sectors 6, 7 and 8 Panipat. The petitioners filed objections under Section 5-A of the Act on 5.6.1989 (Annexure P-21). Notices (Annexure P-23 Colly) under Section 9 of the Act were issued to the petitioners who filed objections to the said notices on 23.4.1992 (Annexure P-24). After considering the objections of the petitioners, the land measuring 10 bighas was let out from the acquisition vide letter dated 6.5.1992 (Annexure P-25). The award was passed on 7.5.1992 (Annexure P-26). The petitioners filed an application dated 30.6.1992 (Annexure P-27) under Section 13-A of the Act. The Director, Urban Estate Department, Haryana wrote a letter dated 2.7.1992 (Annexure P-28) to respondent No. 7 calling for the report after conducting an enquiry on the representations received from the landowners for release of their land. The petitioners made a representation dated 15.9.1992 (Annexure P-29) for reassessment of their land and release of the entire land from the acquisition. Thereafter, they moved another representation dated 11.1.2000 (Annexure P-30). On receipt of the said representation, respondent No.6 wrote a letter dated 27.6.2000 (Annexure P-31) to the petitioners for supplying copies of the Aks sazra, intkal, jamabandi and the site plan along with dimensions of the structures and area. The petitioners vide letter dated 8.7.2000 (Annexure P-32) submitted the required documents. Respondent No. 6 vide letter dated 1.9.2000

(Annexure P-33) called upon the said documents from the petitioners who vide letter dated 5.9.2000 (Annexure P-34) again submitted all the required documents. The petitioners engaged a well reputed industrial consultant and registered chartered engineer and valuer for plant, machinery and shed to verify that sufficient open space is required for carrying out manufacturing operations in their factories who issued a certificate dated 15.9.2000 (Annexure P-35) to the said effect. The petitioners filed CWP No. 13610 of 2000 challenging the said notifications and action of the respondents for demolition of their industrial units and constructed residential houses over the land in dispute and this Court vide order dated 5.1.2001 admitted the said writ petition and stay of demolition was ordered to be continued. Respondent No.7 issued a show cause notice dated 1.7.2002 (Annexure P-36) to the petitioner for eviction from the property in question to which they filed reply dated 11.7.2002 (Annexure P-37). Thereafter, respondent No.7 sent a letter dated 11.12.2003 (Annexure P-38) to the petitioners for appearance along with relevant documents. The said letter was duly replied on 13.12.2003 (Annexure P-39) by the petitioners. The petitioners were again called by respondent No.7 vide letter dated 1.1.2004 (Annexure P-40). The petitioners apprehending their dispossession from the land in dispute, filed CM No. 1226 of 2004 in CWP No. 13610 of 2000 for modification of the order dated 5.10.2000 which was disposed of as infructuous by this Court vide order dated 20.11.2004. The Director General, Urban Estate Department, Haryana called for a report from the Administrator, HUDA, Rohtak who submitted a report dated 29.12.2011 (Annexure P-41) recommending the release of land applied for except the land affecting three 14-Marla plots and 9

meter road. Further, the Director General, Urban Estate Department, Haryana instead of accepting the said recommendation, vide letter dated 24.1.2012 (Annexure P-42) asked respondent No.3 to give a concrete proposal to the recommendation made by the Administrator, HUDA, Rohtak with regard to the release of land of the petitioners. Respondent No.3 vide letter dated 18.5.2012 (Annexure P-43) asked the Administrator, HUDA, Rohtak to supply a copy of the sector layout plan showing in distinct colours, the area already released and recommended to be released etc. who sent a detailed report along with documents vide letter dated 24.8.2012 (Annexure P-44). Respondent No.7 vide letter dated 2.11.2012 (Annexure P-45) submitted the information to respondent No.3 who vide letter dated 6.11.2012 (Annexure P-46) asked the reply of the Junior Engineer duly marked on a site plan clearly depicting in distinct colours, the total land of the petitioners already released and in possession of HUDA and acquired land in possession of the petitioners and the reasons for not taking over possession of the total acquired land. Respondent No.7 vide letter dated 19.11.2012 (Annexure P-47) supplied all the required information to respondent No.3. CWP No. 13610 of 2000 was disposed of by this Court vide order dated 3.3.2014 (Annexure P-48) with a direction to the respondents to conduct a fresh survey/demarcation of the acquired area of the petitioners and consider the desirability of releasing the constructed portion which was found in existence at the time of issuance of notification under Section 4 of the Act. The petitioners made a representation dated 31.12.2013 to the Chief Minister, Haryana for release of the land in question from acquisition which was rejected by the Director General, Urban Estates Department, Haryana vide order dated 1.4.2014 (Annexure P-49). The

petitioners again submitted a representation dated 17.7.2014 (Annexure P-50) to the Chief Minister, Haryana. The Government of Haryana framed a policy dated 26.10.2007 (Annexure P-51) to the effect that the request of the landowner would be considered for release of land under Section 48(1) of the Act if the structure existed prior to issuance of notification under Section 4 of the Act and is inhabited. In pursuance to the order dated 3.3.2014 (Annexure P-48), a Joint Site Inspection Committee (JSIC) visited the site on 27.6.2014. The petitioners moved an application dated 24.7.2014 for report of the JSIC under the Right to Information Act, 2005 and the petitioners were supplied a photo copy of the proceedings (Annexure P-52 Colly) of the meeting of JSIC held on 27.6.2014. The award was passed on 7.5.1992. The petitioners are still in physical possession of the land in question and 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 and compensation has not been paid to them. It was claimed that in such circumstances, the notifications issued under Sections 4 and 6 of the Act for acquisition have lapsed, in view of Section 24(2) of the 2013 Act.

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 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