

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 22631 of 2014

Date of Decision: 29.4.2015

Rakesh Kumar Jain and another

....Petitioners.

Versus

State of Haryana and another

...Respondents.

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

PRESENT: Mr. Pankaj Jain, Advocate for the petitioners.

Ms. Palika Monga, Deputy Advocate General, Haryana.

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 for declaring the acquisition proceedings of the land measuring 8 kanal 10 marlas situated at village Jharsa, Sector 31, Urban Estate, Gurgaon sought to have been acquired vide notifications dated 18.9.1996 (Annexure P-4) issued under Section 4 read with Section 17(1) of the Land Acquisition Act, 1894 (in short “the Act”), dated 19.9.2006 (Annexure P-5) under Section 6 read with Section 17(1) of the Act to 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 land measuring

8 kanal 10 marlas situated within the revenue estate of village Jharsa, Sector 31, Urban Estate, Gurgaon. Government of Haryana issued a notification dated 18.9.2006 (Annexure P-4) under Section 4 read with Section 17(1) of the Act followed by notification dated 19.9.2006 (Annexure P-3) under Section 6 read with Section 17(1) of the Act for acquisition of 8.75 acres of land of village Jharsa including the land of the petitioners for public purpose, namely, for the service road and green belt on either side of N.H.8. The petitioner along with other landowners challenged the said notifications by way of CWP No. 17543 of 2006 and this Court vide order dated 19.1.2009 (Annexure P-7) dismissed the said writ petition. The awards were passed on 28.3.2008 and 15.9.2008 (Annexure P-9 Colly). They are still in physical possession of the land in question. 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 still 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 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

April 29, 2015
gbs

(REKHA MITTAL)
JUDGE