

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 22830 of 2014

Date of Decision: 28.7.2015

M/s Sampark Hotels Private Ltd., New Delhi and others
....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. Adarsh Jain, Advocate for the petitioners.

Ms. Palika Monga, Deputy Advocate General, Haryana.

Mr. Ajay Nara, Advocate for respondent No.3.

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 certiorari for quashing the notifications dated 12.7.2004 (Annexure P-3) issued under Section 4 of the Land Acquisition Act, 1894 (in short "the Act"), dated 11.7.2005 (Annexure P-7) under Section 6 of the Act and the award dated 9.7.2007 (Annexure P-8) qua their land situated within the revenue estate of village Badhkhalsa, Tehsil and District Sonapat, acquired for the development and utilization for 30 meter road between Sectors 62 and 63, Sonapat, 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. Government of Haryana vide notification dated 12.7.2004 (Annexure P-3) issued under Section 4 of the Act followed by notification dated 11.7.2005 (Annexure P-7) under Section 6 of the Act, acquired the land including the land of the petitioners for the development and utilization of land as 30 meter road between Sectors 62 and 63, Sonapat. The petitioners filed objections under Section 5-A of the Act vide letters dated 2.8.2004 (Annexure P-4) and dated 2.9.2004 (Annexure P-5). They filed a representation dated 27.12.2004 (Annexure P-6) before respondent No.2 for the release of their land. The award was passed on 9.7.2007 (Annexure P-8). The possession of the land falling under sector road alignment was demanded by the office of District Town Planner, Sonapat vide letter dated 16.7.2009 (Annexure P-10) two years after the passing of the award which the petitioners had done vide letter dated 24.7.2009 (Annexure P-11). The petitioners vide representation dated 10.10.2012 (Annexure P-12) requested the Director General, Urban Estates Department, Haryana for release of the land shown in blue colour as it was no longer required as the road had already been constructed. In pursuance thereto, a letter dated 3.12.2012 (Annexure P-13) was sent by the State Government to respondent No.3 for conducting spot inspection for release of land which had not been utilized. After spot inspection, respondent No.2 submitted the report dated 24.1.2013 (Annexure P-14) along with site plan. A separate report dated 23.1.2013 (Annexure P-15) was also sent by respondent No.2 to the Director General, Urban Estate Department, Haryana that the land is lying vacant after construction of the sector road and that the landowners have not collected the amount of compensation.

Vide application dated 29.6.2014 (Annexure P-16), an information was sought under the Right to Information Act, 2005 as to whether the compensation qua the land in dispute has been distributed. In response thereto, respondent No.2 vide letter dated 16.7.2014 (Annexure P-17) informed that the amount of compensation has not been disbursed to the landowners. Another application dated 11.8.2014 (Annexure P-18) was moved before respondent No.2 about the payment of compensation of the acquired land who vide reply dated 21.8.2014 (Annexure P-19) stated no landowner has been paid the amount of compensation. A perusal of letter dated 21.8.2014 (Annexure P-20) sent by the Superintending Engineer to the Chief Engineer shows that 30 meter road for which the land in question was acquired is fully constructed and existing on the road. The petitioners 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 question 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 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 the petitioners 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 28, 2015
gbs

(REKHA MITTAL)
JUDGE