

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 22935 of 2014

Date of Decision: 23.4.2015

Santosh 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. Ram Bilas Gupta, Advocate for the petitioners.

Mr. Sudeep Mahajan, Addl. Advocate General, Haryana.

Mr. Ajay Nara, Advocate for respondent No.2.

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 certiorari for quashing the notifications dated 2.8.1989 (Annexure P-4) issued under Section 4 of the Land Acquisition Act, 1894 (in short "the Act"), dated 1.8.1990 (Annexure P-6) under Section 6 of the Act, the award dated 7.10.1991 (Annexure P-8) and all subsequent proceedings arising therefrom. Further, a writ of mandamus has been sought to declare the acquisition 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 are owners and still in possession of the land measuring 17 kanal 8 marlas situated within the revenue estate of village Mewla Mehrazpur, District Faridabad. Government of Haryana vide notification dated 2.8.1989 (Annexure P-4) issued under Section 4 of the Act followed by notification dated 1.8.1990 (Annexure P-6) under Section 6 of the Act, acquired the land measuring 194.97 acres situated in the revenue estate of village Mewla Mehrazpur, District Faridabad for the development and utilization of land for residential and commercial, Sector 45, Faridabad. The petitioners filed objections under Section 5-A of the Act. However, the land measuring 10 acres was left out at the time of declaration under Section 6 of the Act. The award was passed on 7.10.1991 (Annexure P-8). The petitioners filed CWP No. 1929 of 1991 and the same was allowed by this Court vide order dated 3.8.2010 (Annexure P-7) with a direction to the respondents to release their land from the acquisition to the extent occupied by the structures which were used for residential purpose only along with equal open area for the beneficial enjoyment of the petitioners from their land. However, no action was taken thereon. The petitioners are still in physical possession of the land in dispute 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 the 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.

(AJAY KUMAR MITTAL)
JUDGE

April 23, 2015
gbs

(REKHA MITTAL)
JUDGE