

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 2292 of 2015

Date of Decision: 28.7.2015

M/s G.D. Goenka Tourism Corporation Ltd., New Delhi and another
....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. Vibhav Jain, Advocate for the petitioners.

Mr. Sudeep Mahajan, Addl. Advocate General, Haryana with
Mr. Pawan Kumar Jhanda, Asstt. Advocate General,
Haryana.

Mr. Hitesh Pandit, Advocate for respondent No.5.

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 29.1.2003 (Annexure P-1) issued under Section 4 of the Land Acquisition Act, 1894 (in short "the Act") and dated 28.1.2004 (Annexure P-3) under Section 6 of the Act qua their land situated in Gurgaon as the acquisition proceedings 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 48 kanal 13 marlas situated within the revenue estate of Narsingpur, Tehsil and District Gurgaon. Government of Haryana issued a notification dated 29.1.2003 (Annexure P-1) under Section 4 of the Act followed by notification dated 28.1.2004 (Annexure P-3) under Section 6 of the Act for acquisition of land including the land of the petitioners for the development of integrated industrial complex and for setting up of a special economic zone in villages Khandsa, Narsingpur, Mohammadpur-Jhandsha, Gadoly Khurd and Harsuru, Tehsil and District Gurgaon. The petitioners filed objections under Section 5-A of the Act on 10.3.2003 (Annexure P-2). The State constituted a committee vide notification dated 13.2.2004 (Annexure P-4) for examining the submissions of the petitioners who were to be given a personal hearing. The petitioners filed a representation in response to the notification, Annexure P-4, but no notice of hearing was ever given to them. Thereafter, on 9.3.2004, petitioner No.2 filed CWP No. 4382 of 2004 which was dismissed as withdrawn with liberty to file a fresh one on the same cause of action by this Court vide order dated 24.5.2005 (Annexure P-5). Again, the petitioners filed CWP Nos. 9245 and 9246 of 2004 and this Court vide order dated 12.7.2004 granted stay and ordered for listing of the petitions on 2.8.2004 along with CWP No.3645 of 2004. On 4.8.2004, a committee was constituted for considering the case of the petitioners for release of land from acquisition. A collaboration agreement for IT Park was signed between the petitioners and M/s Essel Housing Projects Pvt Ltd. and the petitioners filed an application dated 5.5.2005 before the District Town and Country Planning. Notices under Section 9 of the Act were issued to the petitioners on 2.1.2006 (Annexure P-6 Colly). The award was passed on 27.1.2006 (Annexure P-7) followed by

supplementary award dated 27.2.2007 (Annexure P-8). On 26.8.2007, a Ministers' committee was constituted who on 31.7.2007 recommended for release of the land in question as is evident from the communication dated 22.8.2007 (Annexure P-9). In view of letter dated 22.8.2007, Annexure P-9, CWP Nos. 9245 and 9246 of 2004 were ordered to be dismissed as withdrawn by this Court vide orders dated 22.8.2007 (Annexure P-10 Colly). The said committee vide its 7th meeting held on 15.4.2008 (Annexure P-12) reconfirmed its decision for recommending the release of the land of the petitioners from acquisition. The said decision was further confirmed in the 8th meeting held by the committee on 24.6.2008 (Annexure P-13). In spite of recommendations for release of the land of the petitioners from acquisition, respondent No.1 had not notified for release of the land under Section 48 of the Act. Petitioner No.2 filed COCP No. 269 of 2009 in CWP No. 9246 of 2004 which was disposed of by this Court with a direction to correct the revenue record. In pursuance thereto, mutation dated 18.9.2009 (Annexure P-15) was sanctioned in favour of petitioner No.2. The collaboration agreement dated 2.5.2005 between the petitioners and M/s Essel Housing Projects was terminated and another collaboration agreement for IT Park dated 4.5.2011 was entered between the petitioners and M/s Bestech India Pvt. Ltd. which was terminated on 29.9.2012. The petitioners are still in physical possession of the land in question. No compensation has been received by 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 28, 2015
gbs

(REKHA MITTAL)
JUDGE