

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 2404 of 2015

Date of Decision: 3.8.2015

Mariya and others

....Petitioners.

Versus

The State of Haryana and others

...Respondents.

**CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MR. JUSTICE SHEKHER DHAWAN.**

PRESENT: Mr. S.K. Hooda, Advocate for the petitioners.

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

Mr. S.K. Mahajan, Advocate for respondent No.3.

AJAY KUMAR MITTAL, J.

1. Written statement on behalf of respondents No.1 to 4 filed today in Court is taken on record subject to all just exceptions.

2. 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 9.9.2002 (Annexure P-1) issued under Section 4 of the Land Acquisition Act, 1894 (in short "the Act") and dated 8.9.2003 (Annexure P-2) under Section 6 of the Act along with all other subsequent proceedings qua their land, 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”) in pursuance to

3. Government of Haryana issued a notification dated 9.9.2002 (Annexure P-1) under Section 4 of the Act followed by notification dated 8.9.2003 (Annexure P-2) under Section 6 of the Act for acquisition of land including the land of the petitioners for Sectors 6 to 9, Urban Estate, Jind. At the time of declaration under Section 6 of the Act, some land was released from the acquisition. The petitioners along with other share holders have constructed their houses in their fields for living purposes as the land of the petitioners was reserved for the purpose of garden since 1965 and as such in the survey report also, constructed houses were shown on the land in question. The petitioners submitted their applications including the application dated 30.10.2003 (Annexure P-3) to respondent No.3 for release of their land. They are also having their separate houses of different areas about 500 square yards and after considering the facts of the constructed houses and the report of the committee, the Government has released 20.72 acres of land vide letter dated 18.8.2005 (Annexure P-4). After the issuance of the said letter, no objection certificates were issued to the petitioners vide letters dated 24.2.2006 (Annexures P-5 to P-5/5) in response to their applications dated 6.2.2006. The award was passed on 6.9.2005. The Estate Officer, HUDA, Jind issued a letter dated 18.2.2013 (Annexure P-6) for removing the illegal construction from the land. The petitioners moved various representations including representation dated 9.4.2013 (Annexure P-7) for the release of land, but to no effect. Thereafter, petitioners No.1 to 6 filed CWP No. 18053 of 2013 challenging the notifications and the letter dated 18.2.2013 (Annexure P-6) and this Court vide order dated 20.8.2013 disposed of the said writ petition. In pursuance thereto,

respondent No.2 passed an order dated 27.12.2013 (Annexure P-8) releasing only 195 square yard land. 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.

4. 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, 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.

5. 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

August 3, 2015
gbs

(SHEKHER DHAWAN)
JUDGE