

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 2419 of 2015

Date of Decision: 3.8.2015

Surender Mohan and others

....Petitioners.

Versus

State of Haryana and others

...Respondents.

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

PRESENT: Mr. Sartaj Singh Gill, Advocate for the petitioners.

Ms. Palika Monga, Deputy Advocate General, Haryana.

Mr. Anshul Jain, Advocate for
Mr. Amar Vivek, Advocate for respondent No.2.

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 directing the respondents not to act upon the notifications dated 4.7.2006 (Annexure P-3) issued under Section 4 of the Land Acquisition Act, 1894 (in short "the Act"), dated 3.7.2007 under Section 6 of the Act and the award dated 31.3.2008 (Annexure P-7) qua their land measuring 4 kanal 14 marlas situated in Tehsil and District Fatehabad, 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 the owners of the land measuring 14

kanal 11½ marlas situated in Tehsil and District Fatehabad. Government of Haryana issued a notification dated 4.7.2006 (Annexure P-3) under Section 4 of the Act followed by notification dated 3.7.2007 under Section 6 of the Act for acquisition of land of the petitioners for the public purpose, i.e. for residential and commercial, Sectors 9, 10, 11 and 11A, Fatehabad. The petitioners filed objections under Section 5-A of the Act on 31.7.2006. Respondent No.3 on the basis of the objections made recommendations (Annexure P-4) for release of the constructed portion measuring 4 kanal 14 marlas and the land measuring 5 kanal 3½ marlas. In pursuance thereto, the constructed portion of the petitioners was released. Government of Haryana framed a policy dated 26.10.2007 (Annexure P-5) which was subsequently amended on 24.1.2011 (Annexure P-6) for release of land from acquisition proceedings. Notices under Section 9 of the Act were issued to the petitioners. The award was passed on 31.3.2008 (Annexure P-7). The petitioners moved a representation dated 5.8.2014 (Annexure P-8) to the Director General, Urban Estate Department, Haryana for release of the land, but to no effect. 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 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 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 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

