

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 25230 of 2014

Date of Decision: 6.7.2015

Joginder Singh

....Petitioner.

Versus

State of Haryana and others

...Respondents.

**CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MRS. JUSTICE REKHA MITTAL.**

PRESENT: Mr. Mohinder S. Nain, Advocate for the petitioner.

Ms. Palika Monga, Deputy Advocate General, Haryana.

AJAY KUMAR MITTAL, J.

1. In this petition filed under Articles 226/227 of the Constitution of India, the petitioner has prayed for issuance of a writ in the nature of certiorari for quashing the notifications dated 23.2.1989 (Annexure P-1) issued under Section 4 of the Land Acquisition Act, 1894 (in short "the Act") and dated 22.2.1990 (Annexure P-2) under Section 6 of the Act qua their land, 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") and letter dated 14.5.2008 (Annexure P-7).

2. Government of Haryana vide notification dated 23.2.1989 (Annexure P-1) issued under Section 4 of the Act followed by notification dated 22.2.1990 (Annexure P-2) under Section 6 of the Act, acquired the

land situated within the revenue estate of Patti Taraf Insar, Panipat including the land of the petitioner. The petitioner filed objections under Section 5-A of the Act. He moved a representation for the release of land as there is constructed small scale industry prior to issuance of notification under Section 4 of the Act. Respondent No.5 vide letter dated 17.4.2002 (Annexure P-3) informed the petitioner that out of total land of 1 bigha 1 biswas in khasra No. 4362/2, the land measuring 1 bigha 16 biswas was already shown to be released under Section 5-A of the Act. The petitioner constructed a restaurant and godown on the said land. Prior to the said construction, the petitioner applied for the Change of Land User (CLU) of the land in question vide letter dated 7.9.2007 and the respondents pointed out certain deficiencies in the said CLU dated 18.9.2007. The petitioner vide letter dated 29.1.2007 (Annexure P-5) informed the respondents about the removal of deficiencies. Respondent No.4 vide letter dated 14.5.2008 (Annexure P-7) informed the petitioner that only 1 bigha of land in khasra No. 4362/2 stands released. The petitioner submitted a representation dated 3.2.2009 (Annexure P-8) to respondent No.2 for release of land measuring 17 biswa comprised in khasra No. 4362/2. He received a letter dated 25.2.2009 (Annexure P-9) from respondent No.2 to contact the Estate Estate Department for the release of 17 biswa land. Thereafter, the petitioner submitted various representations including the legal notice dated 24.8.2012 (Annexure P-10) to the respondents but to no effect. He also moved a detailed representation dated 21.8.2014 (Annexure P-12) to respondents No.2 to 4 but no response has been received till date. The petitioner is still in physical possession of the land in question.

No compensation has been paid to him. According to the petitioner, 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 petitioner submitted that the petitioner is still in physical possession of the land in question and compensation has not been paid to him. 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 petitioner 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 petitioner 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 petitioner 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 petitioner within a period of four months from the date of receipt of representation. The petitioner

shall be entitled to lead any evidence to substantiate his claim before the concerned authority. 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 6, 2015
gbs

(REKHA MITTAL)
JUDGE