

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 26313 of 2014

Date of Decision: 6.4.2015

Ranbir (dead) through his LRs

....Petitioners.

Versus

State of Haryana and others

...Respondents.

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

PRESENT: Mr. Shiv Kumar, Advocate for the petitioners.

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

Mr. Varun Gambhir, Advocate for
Mr. Amar Vivek, Advocate for respondents No.2 and 4.

AJAY KUMAR MITTAL, J.

1. The petitioners, by way of instant petition filed under Articles 226/227 of the Constitution of India, have prayed for issuance of a writ in the nature of certiorari for quashing the notifications dated 30.4.1986 (Annexure P-2) issued under Section 4 of the Land Acquisition Act, 1894 (in short "the Act") and dated 28.4.1987 (Annexure P-3) under Section 6 of the Act 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 predecessor-in-interest of the petitioners was the owner in possession of the land measuring 11 kanal 7 marlas situated at village

Mewla Maharajpur, Tehsil Ballabgarh, District Faridabad. Government of Haryana issued notification dated 30.4.1986 (Annexure P-2) under Section 4 of the Act followed by notification dated 28.4.1987 (Annexure P-3) under Section 6 of the Act for acquisition of land situated within the revenue estate of Mewla Maharajpur, Teshil Ballabagarh, District Faridabad including the land of the petitioners for the development and utilization of land as residential and commercial area in Sector 46, Urban Estate, Faridabad. The petitioners filed objection under Section 5-A of the Act. The petitioners filed CWP No. 2454 of 1988 in this Court challenging the notifications to the extent of land measuring 8 kanals along with other affected persons. Initially, the aforesaid writ petition was admitted and interim stay of dispossession was passed vide order dated 29.9.1988. Ultimately, the writ petition was partly allowed vide order dated 8.8.2013 (Annexure P-4) and out of the total land of the petitioners, the land measuring 1 kanal 10 marlas where the house of the petitioners is located, the acquisition notification was quashed. Out of the total land, the petitioners was paid the compensation for the land measuring 3 kanals 17 marlas and for the remaining land of 8 kanals, 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 as they are in actual physical possession of the land in dispute and no compensation for the land measuring 9 kanals has been paid. Hence, the present writ petition.

3. Learned counsel for the petitioners submitted that the award was made on 28.12.1988. It was urged 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 the petitioners have sent a legal notice dated 12.3.2014 (Annexure P-7) to the respondents for releasing the land in question but no action has so far been taken thereon. He, however, prayed that 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 and 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 6, 2015
gbs

(REKHA MITTAL)
JUDGE