

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 26816 of 2014

Date of Decision: 28.7.2015

Fateh 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. Sanjay Mittal, Advocate for the petitioner.

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

AJAY KUMAR MITTAL, J.

1. By way of instant 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 27.1.2003 (Annexure P-2) issued under Section 4 of the Land Acquisition Act, 1894 (in short "the Act"), dated 23.1.2004 (Annexure P-4) under Section 6 of the Act and the award dated 20.1.2006 (Annexure P-7).

2. The petitioner is co-owner in possession of the land measuring 25 kanal 5 marlas to the extent of 28/505 share, i.e. 1 kanal 8 marlas, situated in village Padiawas, Tehsil and District Rewari and has made 'A' class construction thereon prior to the issuance of notification under Section 4 of the Act. Government of Haryana vide notification dated 27.1.2003 (Annexure P-2) issued under Section 4 of the Act

followed by notification dated 23.1.2004 (Annexure P-4) under Section 6 of the Act, acquired the land including the land of the petitioner for the development and utilization of land for residential and commercial Sectors 18, 19 and 20 Part, commercial Sector 17 Part, Rewari. The petitioner filed objections under Section 5-A of the Act. Respondent No.7 released the land in favour of Phool Singh etc. on 13.1.2006 and respondent No.5 had issued licence dated 31.5.2007 (Annexure P-5) in favour of said private persons. The State Government has released some other land measuring 70 acres vide notification dated 27.3.2006 (Annexure P-6) issued under Section 48 of the Act. The award was passed on 20.1.2006 (Annexure P-7). The petitioner along with others filed CWP No. 20966 of 2011 challenging the acquisition proceedings which was disposed of by this Court vide order dated 19.9.2013 (Annexure P-8). The petitioner filed CM No. 13700 of 2014 in the said writ petition which was dismissed as withdrawn by this Court vide order dated 5.12.2014. He is still in physical possession of the land in question and no compensation has been paid to him. According to the petitioner, 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"). 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 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. 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