

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 3869 of 2014

Date of Decision: 30.7.2015

Banwari Lal and another

....Petitioners.

Versus

State of Haryana and others

...Respondents.

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

PRESENT: Mr. Navneet Singh, Advocate for the petitioners.

Ms. Palika Monga, Deputy Advocate General, Haryana.

Mr. Sudeep Mahajan, Advocate for respondent No.3.

AJAY KUMAR MITTAL, J.

1. By way of instant petition filed under Articles 226/227 of the Constitution of India, the petitioners have prayed for issuance of a writ in the nature of certiorari for quashing the notifications dated 18.10.2002 (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 qua their land. Further, a writ of mandamus has been sought directing the respondents to release the land of the petitioners from acquisition.

2. The petitioners are owners in possession of the land measuring 26 kanal 6 marlas situated within the revenue estate of village Sehjanpur, Tehsil and District Sonapat. State of Haryana issued a notification dated 18.10.2002 (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 375.26 acres of land of various villages including the land of the petitioners for the development and utilization of land as residential and commercial for Sector 16, Sonapat. The petitioners filed objections under Section 5-A of the Act. The award was passed on 5.9.2005. Respondent No.5 entered into an agreement with some of the farmers belonging to the village of the petitioners and had applied for getting license for carving out the plots and building for residential and commercial. On the basis thereof, the land was released in favour of respondent No.5 by the State Government. As per letter dated 5.4.2010 (Annexure P-3), 253.99 acres of land has been acquired whereas 121.85 acres of land has been released to the private colonizers and individuals. The petitioners are still in physical possession of the land in question and partial compensation has been received by them. According to the petitioners, 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 petitioners submitted that the petitioners are in physical possession of the land in dispute and partial compensation has been received by 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.

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

July 30, 2015
gbs

(REKHA MITTAL)
JUDGE