

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 2958 of 2015

Date of Decision: 23.7.2015

Nilesh 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. Mukesh Rao, Advocate for the petitioners.

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

Mr. Som Nath Saini, 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 27.1.2003 (Annexure P-4) issued under Section 4 of the Land Acquisition Act, 1894 (in short “the Act”) and dated dated 23.1.2004 (Annexure P-5) 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 petitioners are owners in possession of the land measuring 9 kanal 1 marla situated within the revenue estate of village Padiawas, Tehsil and District Rewari. The said land is bounded by constructed houses of villages Padiawas and Dhaliawas where

residential houses had come up much prior to the purchase of the land in question. Government of Haryana issued policy/instructions dated 26.6.1991 (Annexure P-1) leaving Grade 'A' and 'B' construction from acquisition. Another policy dated 8.1.2007 (Annexure P-2) was issued to the effect that where the constructions are made and are being used for residences, shall not be included in the acquisition proceedings. Likewise, policy dated 26.10.2007 (Annexure P-3) was issued regarding release of land from acquisition. Government of Haryana vide notification dated 27.1.2003 (Annexure P-4) issued under Section 4 of the Act followed by notification dated 23.1.2004 (Annexure P-5) under Section 6 of the Act, acquired the land of the petitioners for the development and utilization of land for residential and commercial Sectors 18, 19 and 20 Part, commercial Sector 17 Part, Rewari. The petitioners filed objections under Section 5-A of the Act. The award was passed on 20.1.2006. The petitioners sent a representation dated 29.4.2014 (Annexure P-7) for release of land, but to no effect. They are still in physical possession of the land in dispute and no compensation has been received by 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

July 23, 2015
gbs

(REKHA MITTAL)
JUDGE