

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 325 of 2015

Date of Decision: 5.8.2015

Chander Bhan

....Petitioner.

Versus

State of Haryana and others

...Respondents.

**CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MR. JUSTICE DARSHAN SINGH.**

PRESENT: Mr. Pawan Kumar, Senior Advocate with
Mr. Anshuman Mandhar, Advocate for the petitioner.

Mr. Sudeep Mahajan, Addl. 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 mandamus directing the respondents to release his 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"). Further, a writ of certiorari has been sought for quashing the notifications dated 26.2.2002 (Annexure P-1) issued under Section 4 of the Land Acquisition Act, 1894 (in short "the Act"), dated 18.11.2002 (Annexure P-2) under Section 6 of the Act and the award dated 20.5.2004 (Annexure P-3) qua the land of the petitioner.

2. Government of Haryana issued a notification dated

26.2.2002 (Annexure P-1) under Section 4 of the Act followed by notification dated 18.11.2002 (Annexure P-2) under Section 6 of the Act for acquisition of land including the land of the petitioner for setting up Chaudhary Devi Lal Industrial Model Township, Phase IV, Manesar to be planned and developed as an integrated complex for industrial, institutional and other public utilities etc. in village Bas Kusla, Bas Haria, Dhana and Kasan, Tehsil and District Gurgaon. The award was passed on 20.5.2004 (Annexure P-3). The land measuring 1445.93 square meter belonging to the petitioner and other co-sharer was released from acquisition. Respondent No.4 vide order dated 5.8.2014 ordered that plot Nos. 143 and 144 be demolished and separate land of 500 square meter at plot No. 142 be allotted to Shaheed Sandeep Singh's family. The petitioner sent a representation dated 30.11.2011 (Annexure P-8) followed by a legal notice dated 23.4.2012 (Annexure P-9) that the amount of compensation to the extent of 1/9th share be not deposited and the same be deducted from the total amount of compensation. Accordingly, the amount of compensation of the petitioner to the extent of 1/9th share of the property was deducted from the compensation as assessed vide Annexure P-10. The petitioner except part of the compensation received earlier, has not received the amount of compensation as determined in Annexure P-10 and the same stands deposited. The petitioner filed a civil suit for mandatory injunction in which he made a statement dated 5.11.2014 (Annexure P-12) for dismissal of the suit as withdrawn for approaching the High Court. The said civil suit was dismissed as withdrawn by the trial court vide order dated 5.11.2014 (Annexure P-13). The petitioner is still in physical possession of the land in question and partial compensation has been

received by 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 petitioners are in physical possession of the land in dispute and partial amount of compensation has not received by 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 them 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

August 5, 2015
gbs

(DARSHAN SINGH)
JUDGE