

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 3699 of 2015

Date of Decision: 17.3.2015

Shri Charan Dass and another

....Petitioners.

Versus

Union of India and others

...Respondents.

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

PRESENT: Mr. Amar Vivek, Advocate and
Mr. Anshul Jain, Advocate for the petitioners.

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 declaring that the impugned notifications dated 19.3.1999 (Annexure P-4) and dated 23.3.1999 (Annexure P-5) issued under Sections 4 and 6 of the Land Acquisition Act, 1894 (in short “the Act”), respectively including the award dated 18.1.2000 (Annexure P-7) passed in pursuance thereof and also in view of the judgment of the Apex Court in Civil Appeal No. 877 of 2014 dated 24.1.2014 have lapsed under 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”) and as such the impugned notifications vide which the only residential house of the petitioners built on an area of 7½ marlas had been acquired out of the land measuring 87 kanal 6 marlas within the revenue estate of village Behlana,

Chandigarh and the award are liable to be quashed and the house of the petitioners be released from acquisition. Further, a prayer for issuance of writ of mandamus has also been made directing the authorities to hand over the vacant possession of the land in question to the petitioners and to pay compensation on account of illegal demolition of the house in dispute and denial of permission to the petitioners to lift the malba and articles therefrom.

2. As per the averments made in the writ petition, the petitioners purchased 5 marlas land in village Behlana, UT, Chandigarh vide sale deed dated 29.7.1997 (Annexure P-1) executed by Lajya Ram for ₹ 40,000/- in khasra Nos. 9/6 (8-0), 7/1 (4-0) in khewat No. 23, Khantoni No. 29, Hadbast No.231. Another land measuring 2½ marlas was also purchased by the petitioners from Lajya Ram through power of attorney dated 12.3.1998 (Annexure P-2) for ₹ 45,000/- comprised in khewat/khatoni No. 12/15, 29/30, khasra Nos. 9//0(8-0), 7/1(4-0), 10//26/6/05 out of total rakba of 18 kanal 5 marlas in village Behlana, Chandigarh. They had constructed a house comprising of two bed rooms, one kitchen, one store and one drawing room and had been living since January, 1998. Except the said house, the petitioners did not own or possess any other house in the country and also do not possess any other immovable property. The Government vide notification dated 12.2.1999 (Annexure P-3) issued under Section 7(i) of the Requisitioning and Acquisition of Immovable Property Act, 1952 (for brevity, "1952 Act") acquired a part of land in village Behlana, UT, Chandigarh bearing Hadbast No. 231 including the land of Lajya Ram for defence purposes. As per the respondents, the land of the petitioners had not been acquired by the said notification. The Advisor to Chandigarh

Administration on his own issued another notification dated 19.3.1999 (Annexure P-4) under Section 4 of the Act followed by notification dated 23.3.1999 (Annexure P-5) under Section 6 of the Act for acquisition of about 33 acres of land in village Behlana, Hadbast No. 231 including the house of the petitioners for public purpose, i.e. defence and security purposes. The petitioners moved a representation dated 6.1.2000 (Annexure P-6) to the Land Acquisition Collector, UT, Chandigarh with a copy to respondent No.3 for exemption of their house from acquisition constructed on an area of seven and half marlas. The Land Acquisition Collector without issuing any notice under Section 9 of the Act passed an award dated 18.1.2000 (Annexure P-7). However, neither the compensation was offered to the petitioners nor they had received any compensation till date. Accordingly, the petitioners filed CWP No. 15300 of 2000 challenging the acquisition proceedings. The writ petition and the review application of the petitioners were dismissed by this Court against which they approached the Supreme Court. The Supreme Court remanded the matter back and the petitioners were allowed to file a second review application. Thereafter, the petitioners filed review application bearing RA-CW-236 of 2011 which was allowed but the main writ petition of the petitioners was dismissed by this Court. After that, the petitioners were dispossessed and the possession of their house was taken over and was demolished. The petitioners were not allowed to remove their construction material due to which they suffered huge losses of ₹ 5 lacs. The Apex Court in Civil Appeal No. 877 of 2014 decided on 24.1.2014 held that the persons like the petitioners were entitled to have their land released from acquisition if they were not paid compensation. The petitioners moved a representation dated 5.10.2014

(Annexure P-8) to respondent No.3 but no response has been received. Hence, the present writ petition.

3. Learned counsel for the petitioners submitted that the compensation has not been paid to the petitioners. It was claimed that in such circumstances and 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 for the relief claimed in the writ petition, the petitioners have moved a representation dated 5.10.2014 (Annexure P-8) to respondent No.3, but no action has so far been taken thereon.

4. After hearing learned counsel for the petitioners, perusing the present petition and without expressing any opinion on the merits of the case, we dispose of the present petition by directing respondent No.3 to take a decision on the representation dated 5.10.2014 (Annexure P-8), in accordance with law by passing a speaking order and after affording an opportunity of hearing to the petitioners within a period of four months from the date of receipt of certified copy of the order. The petitioners shall be entitled to lead any evidence to substantiate their claim before the concerned authority. Till the matter is decided by the concerned authority, status quo shall be maintained by the parties.

(AJAY KUMAR MITTAL)
JUDGE

March 17, 2015
gbs

(REKHA MITTAL)
JUDGE