

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 5591 of 2014

Date of Decision: 20.7.2015

Phool Singh 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. J.K. Goel, Advocate for the petitioners.

Ms. Palika Monga, Deputy Advocate General, Haryana.

Mr. Ajay Nara, Advocate for respondent No.3.

AJAY KUMAR MITTAL, J.

1. In this 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 2.1.2002 (Annexure P-2) issued under Section 4 of the Land Acquisition Act, 1894 (in short "the Act"), dated 24.12.2002 (Annexure P-5) under Section 6 of the Act, the award dated 21.12.2004 (Annexure P-6), the order dated 7.8.2012 (Annexure P-9) and all subsequent proceedings arising therefrom.

2. The petitioners are owners in possession of the land measuring 3 kanal 5 marlas. Government of Haryana issued a notification dated 2.1.2002 (Annexure P-2) under Section 4 of the Act

followed by notification dated 24.12.2002 (Annexure P-5) under Section 6 of the Act for acquisition of land including the land of the petitioners for residential and commercial area of Sectors 9, Part 32 and 33 Kasba Karnal. The petitioners filed objections dated 22.1.2002 (Annexures P-3 and P-4, respectively) under Section 5-A of the Act. The award was passed on 21.12.2004 (Annexure P-6). The petitioners filed CWP No. 3459 of 2007 challenging the said notifications and this Court vide order dated 9.9.2008 (Annexure P-7) disposed of the said petition with liberty to the petitioners to submit fresh representations to the Director, Town and Country Planning Department, Haryana. In pursuance thereto, the petitioners moved a representation dated 5.6.2009 (Annexure P-8) to respondent No.4 for release of the land in question who vide order dated 7.8.2012 (Annexure P-9) rejected the said representation. They are still in physical possession of the land in question. 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. 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 20, 2015
gbs

(REKHA MITTAL)
JUDGE