

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 4471 of 2015

Date of Decision: 6.4.2015

Nishan Singh

....Petitioner.

Versus

State of Haryana and others

...Respondents.

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

PRESENT: Mr. Pankaj Midha, 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 certiorari for quashing the impugned notifications dated 23.2.1989 (Annexure P-7) and dated 22.2.1990 (Annexure P-8) issued under Sections 4 and 6 of the Land Acquisition Act, 1894 (in short “the Act”) vide which the constructed house of the petitioner measuring 2 bigha 5 biswa has been acquired 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”) and also for quashing notice dated 4.3.2015 (Annexure P-11). Further, a writ of mandamus has been sought directing the respondents to release the land of the petitioner in view of Section 24(2) of the 2013 Act and as per

the policy dated 24.1.2011 (Annexure P-13) of the State Government.

2. As per the averments made in the petition, the petitioner is owner in possession of a residential house measuring 2 bigha 5 biswas. Respondent No.1 issued a notification dated 23.2.1989 (Annexure P-7) under Section 4 of the Act followed by notification dated 22.2.1990 (Annexure P-8) under Section 6 of the Act for acquisition of 325.40 acres of land including the house of the petitioner situated in village Patti Insar, Panipat, Hadbast No.12 for Sector 13/17 for the purpose of development and utilization of land as residential and commercial area. The petitioner filed objection under Section 5-A of the Act and the award was passed on 21.2.1992. However, the adjoining area of other similarly situated persons and the vacant area had been left out from the acquisition. He is still in physical possession of the land in question. No compensation has been paid to him. Respondent No.4 issued a notice dated 4.3.2015 (Annexure P-11) to the petitioner for vacation of the land. 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 petitioner is in physical possession of the land in dispute and compensation has not been paid to 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 him 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.

(AJAY KUMAR MITTAL)
JUDGE

April 6, 2015
gbs

(REKHA MITTAL)
JUDGE