

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 4487 of 2015

Date of Decision: 18.3.2015

Chanderbhan and others

....Petitioners.

Versus

The State of Haryana and another

...Respondents.

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

PRESENT: Mr. Amarjit Markan, Advocate for the petitioners.

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 mandamus seeking declaration to the effect that the compulsory acquisition process issued under Section 4 of the Land Acquisition Act, 1894 (in short "the Act") vide notification dated 31.5.1983 (Annexure P-1) followed by notification dated 2.6.1983 (Annexure P-1/A) under Section 6 of the Act and award dated 5.10.1983 (Annexure P-2) qua the land measuring 4 kanal 11 marlas comprised in rectangle No. 35, khasra Nos. 14/24(3-0), 17(1-11) situated in village Ashrafgarh, District Jind shall be deemed to have lapsed in terms 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, prayer for stay of dispossession of the petitioners

has been made.

2. Government of Haryana vide notification dated 31.5.1983 (Annexure P-1) issued under Section 4 of the Act followed by notification dated 2.6.1983 (Annexure P-1/A) under Section 6 of the Act, acquired land measuring 4 kanal 14 marlas comprised in khasra No. 14/24 and 17 min for the public purpose, i.e. for the allotment of residential plots to landless/homeless Harizans, members of Backward Classes and economically weaker persons in village Ashrafgarh, Tehsil and District Jind. Respondent No.2 vide award dated 5.10.1983 (Annexure P-2) assessed the compensation of the land of the petitioners. However, the possession of the land continued with Kailash Rani through Dhanpat *Gair Marusi* tenant as mentioned in the jamabandi for the year 1982-83 (Annexure P-3). The notice under Section 9 of the Act was not issued to Dhanpat tenant but was sent to Kailash Rani vendor and other co-sharers. At the time of issuance of notice under Section 9 of the Act, the land bearing khasra No. 35//14/24(3-0) was being cultivated by Dhanpat (father/grandfather of the petitioners) as *Gair Marusi*. However, no notice under Section 9(1) of the Act was issued for taking possession of the said land including the other land described in the notifications under Sections 4 and 6 of the Act. The possession was neither taken from Kailash Rani co-sharer nor from Dhanpat during his life time as well as from the petitioners as the death of Dhanpat and their names had been reflected in the revenue record in the column of cultivation and mutation was sanctioned in the name of the petitioners on the basis of the registered sale deed dated 5.1.1984 (Annexure P-4). Dhanpat and his sons had constructed their residential houses upon the suit land before the acquisition proceedings as Dhanpat remained tenant upon

the land in dispute as well as other land under the said land owners. The acquired land measuring 3 kanals had been converted into a residential colony wherein the families of the petitioners had been residing. Petitioners No.1 to 4 and Norang Singh (since deceased) filed a suit for permanent injunction restraining the State of Haryana through Collector from interfering with propriety possession of rectangle No. 35, killa No. 14/24(3-0) situated at village Ashrafgarh, Tehsil and District Jind. The trial court vide judgment and decree dated 4.6.1986 (Annexure P-9) decreed the suit and restrained the State of Haryana from taking forcible possession from them. The appeal filed by the State of Haryana was dismissed by the lower appellate court vide judgment and decree dated 1.2.1989 (Annexure P-10) whereas the cross objection filed by the plaintiffs therein was allowed. The State of Haryana took the matter before this Court by way of RSA No. 1389 of 1989. The said appeal was allowed on 10.3.2014 (Annexure P-11) and the suit was dismissed being not maintainable. 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 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 petitioners, 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 one month 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.

(AJAY KUMAR MITTAL)
JUDGE

March 18, 2015
gbs

(REKHA MITTAL)
JUDGE