

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 5759 of 2014

Date of Decision: 25.3.2015

Mai Chand and others

....Petitioners.

Versus

State of Haryana and others

...Respondents.

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

PRESENT: Mr. Neeraj Gupta, Advocate for the petitioners.

Ms. Palika Monga, Deputy Advocate General, Haryana.

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 for quashing the notifications dated 20.6.2005 (Annexure P-2) issued under Section 4 of the Land Acquisition Act, 1894 (in short "the Act"), dated 19.6.2006 (Annexure P-4) under Section 6 of the Act and the award dated 22.2.2007. Further, a prayer has also been made directing the respondents to release of the land of the petitioners 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").

2. As per the averments made in the petition, the petitioners are the co-owners in possession of the land measuring 5 bigha 1 biswa

situated in village Wazirabad, Tehsil and District Gurgaon. Respondent No.1 issued notification dated 20.6.2005 (Annexure P-2) under Section 4 of the Act followed by notification dated 19.6.2006 (Annexure P-4) under Section 6 of the Act for acquisition of land of the petitioners for the public purpose for the development and utilization of land for residential, commercial, institutional and open spaces/recreational area for sectors 52A and 53, Gurgaon. The petitioners filed objections under Section 5-A of the Act on 12.7.2005 (Annexure P-3). The award was passed by respondent No.2 on 22.2.2007. The petitioners represented respondent No.2 for the release of their houses which was declined vide letter dated 11.1.2012 (Annexure P-5). According to the petitioners, the notifications under Sections 4 and 6 of the Act and the award have lapsed in view of Section 24(2) of the 2013 Act as they were in actual physical possession of the land in dispute and no compensation has been paid to them. Hence, the present writ petition.

3. Learned counsel for the petitioners submitted that the petitioner 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 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 the 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 25, 2015
gbs

(REKHA MITTAL)
JUDGE