

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 5838 of 2015

Date of Decision: 30.3.2015

Smt. Usha Rani @ Usha Sharma

....Petitioner.

Versus

State of Haryana and others

...Respondents.

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

PRESENT: Mr. Ajay Jain, Advocate for the petitioner.

AJAY KUMAR MITTAL, J.

1. By way of instant 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 notifications dated 30.5.2005 (Annexure P-1) issued under Section 4 of the Land Acquisition Act, 1894 (in short "the Act"), dated 22.5.2006 (Annexure P-2) under Section 6 of the Act and the award dated 16.7.2007 (Annexure P-3) whereby the land of the petitioner situated at village Bhatauli, Tehsil Jagadhri, District Yamuna Nagar along with other land was acquired for the public purpose, i.e. for the development and utilization of land as residential and commercial area for Sectors 22, 23 and 24 Part, Jagadhri, 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").

2. As per the averments made in the petition, the petitioner is owner in possession of the land measuring 198 square yards bearing plot No. 20 situated within the revenue estate of village Bhatauli, Tehsil Jagadhri, District Yamuna Nagar which she purchased vide registered sale deed dated 24.7.2003 from Shri Gurmej Singh son of Shri Sardara for a consideration of ₹ 93,000/-. Government of Haryana issued a notification dated 30.5.2005 (Annexure P-1) under Section 4 of the Act followed by notification dated 22.5.2006 (Annexure P-2) under Section 6 of the Act for acquisition of land of the petitioner along with other land for public purpose, namely, for the development and utilization of land as residential and commercial area for Sections 22, 23 and 24 Part Jagadhri. The award was passed on 16.7.2007 (Annexure P-3). In the year 2010, the respondents threatened to interfere in the peaceful possession of the petitioner, upon which she filed a civil suit for permanent injunction restraining them from interfering in her physical and peaceful possession. The defendants therein filed reply to the said civil suit pleading that the Haryana Urban Development Authority had made payment to the Land Acquisition Collector of the acquired land and she can get the amount of compensation from the Land Acquisition Collector. The trial court dismissed the said civil suit vide judgment and decree dated 23.12.2014 (Annexure P-4) including civil suit No. 406 filed by the petitioner. She is still in physical possession of the land in question. No compensation has been paid to her. 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 her. 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 petitioner, 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 her within a period of four months from the date of receipt of representation. The petitioner shall be entitled to lead any evidence to substantiate her 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 30, 2015
gbs

(REKHA MITTAL)
JUDGE