

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 5859 of 2015

Date of Decision: 30.3.2015

Hans Raj

....Petitioner.

Versus

State of Haryana and others

...Respondents.

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

PRESENT: Mr. N.D. Achint, Advocate for the petitioner.

AJAY KUMAR MITTAL, J.

1. In this writ petition filed under Articles 226/227 of the Constitution of India, the petitioner has prayed for issuance of a writ in the nature of Mandamus prohibiting the respondents to demolish his shop situated in khasra No. 21/1 which was not notified for acquisition while issuing notifications dated 26.3.2012 (Annexure P-3) under Section 4 of the Land Acquisition Act, 1894 (in short "the Act") and dated 20.3.2013 (Annexure P-4) under Section 6 of the Act.

2. As per the averments made in the petition, the petitioner purchased a plot bearing rectangle No. 132, khasra No. 21/1 vide sale deed dated 27.7.2009 and in pursuance thereto, mutation dated 15.12.2009 (Annexure P-1) was sanctioned in his favour. The respondents issued notification dated 14.7.2010 (Annexure P-2) under Section 4 of the Act for acquisition of land measuring 24 kanal 16 marlas including the land of the petitioner. Objection under Section 5-A of the Act was not filed as the shop situated in khasra No.21/1 was not the subject matter of the acquisition. The respondents did not pursue the notification (Annexure P-2) which was elapsed on account of non-action by the respondents. Thereafter, the respondents again issued notification dated 26.3.2012 (Annexure P-3) under Section 4 of the Act

for acquisition of shops and houses in khasra No. 21/3 and the houses and shops situated in khasra No. 21/1 were not notified in the said notification. After that, notification dated 20.3.2013 (Annexure P-4) under Section 6 of the Act was issued. However, in both the notifications, there was no acquisition of khasra No. 21/1 belonging to the petitioner. The respondents issued notice dated 2.3.2015 (Annexure P-5) under Section 9 of the Act to the petitioner in respect of khasra No. 21/1. The petitioner made written request to respondent No.3 for not acquiring khasra No.21/1 who declined his request and passed the award dated 19.3.2015. According to the petitioner, he moved a request letter dated 18.3.2015 (Annexure P-6) to respondent No.3 for not passing award qua khasra No.21/1 which was not notified for acquisition, but the same was declined and passed the award dated 19.3.2015. The copy of the award has not been made publicly till date and the officials of respondent No.3 have proceeded to demolish the shops situated in khasra No. 21/1. Hence, the present writ petition.

3. Learned counsel for the petitioner urged that representation dated 18.3.2015, Annexure P-6 sent to respondent No.3 is without passing specific orders and included khasra No. 21/1 in the award dated 19.3.2015 which has not been available till date.

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 directing respondent No.3 to take a decision on the representation/letter dated 18.3.2015 (Annexure P-6), in accordance with law by passing a speaking order and after affording an opportunity of hearing to the petitioner within a period of three months from the date of receipt of certified copy of the order. Till the matter is decided by the said respondent, status quo shall be maintained by the parties.

(AJAY KUMAR MITTAL)
JUDGE

March 30, 2015
gbs

(REKHA MITTAL)
JUDGE