

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 6078 of 2015

Date of Decision: 1.4.2015

Janak Rani and another

....Petitioners.

Versus

State of Haryana and others

...Respondents.

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

PRESENT: Mr. Ashu Bhatia, 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 certiorari for quashing the notifications dated 2.1.2002 (Annexure P-2) issued under Section 4 of the Land Acquisition Act, 1894 (in short "the Act") and dated 24.12.2002 (Annexure P-3) under Section 6 of the Act.

2. The petitioners are owners of land measuring 12 kanal 1 marla situated within the revenue estate of village Phoosgarh, Tehsil and District Karnal along with Smt. Asha Rani wife of Ramesh Raj and Smt. Ramti Devi widow of Atma Ram in euqal shares, i.e., 4 kanal 1/3 marla each. Petitioner No.1 through her son and nephew set up a small scale industry, namely, Bharat Surface Coatings, Phoosgarh in the year 1989. The petitioners have also constructed a boundary wall of more than 5

feet high. Government of Haryana vide notification dated 2.1.2002 (Annexure P-2) issued under Section 4 of the Act followed by notification dated 24.12.2002 (Annexure P-3) under Section 6 of the Act, acquired land situated in hadbast No.1 including the area of village Phoosgarh for the public purpose for the development and utilization of the land as residential and commercial area for Sectors 9 part 32 and 33 part, Karnal. The petitioners filed objections under Section 5-A of the Act on 31.1.2002. The respondents issued notice on Form L-A under Section 9 of the Act dated 9.11.2004 (Annexure P-4). After the acquisition, the petitioners are still continuing to be in possession of the said land. No compensation has been paid to them. According to the petitioners, the acquisitions proceedings have lapsed 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"). 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 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 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

April 1, 2015
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(REKHA MITTAL)
JUDGE