

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 6086 of 2015

Date of Decision: 1.4.2015

Kishan 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. Sanjay Vij, Advocate for the petitioners.

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 mandamus directing the respondents not to take action qua their land bearing khasra No. 32/20 situated within the revenue estate of village Kanhai, Tehsil and District Gurgaon as the acquisition proceedings undertaken vide notifications dated 20.4.1990 (Annexure P-1) issued under Section 4 of the Land Acquisition Act, 1894 (in short “the Act”) and dated 18.4.1991 (Annexure P-2) under Section 6 of the Act 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”).
2. The petitioners are co-owners and are in joint possession of the land measuring 5 kanal 13 marlas situated within the revenue estate

of village Kanhai, Tehsil and District Gurgaon, 1/12 share out of total land measuring 66 kanal 2 marlas. Government of Haryana vide notification dated 20.4.1990 (Annexure P-1) issued under Section 4 of the Act followed by notification dated 18.4.1991 (Annexure P-2) under Section 6 of the Act, acquired the land for the public purpose, i.e. for the development and utilization of the land for residential, commercial, institutional and open space/recreational area in Gurgaon. The award was passed on 23.3.1993. Some of the co-sharers challenged the said notifications by filing CWP No. 4499 of 1992 which was dismissed by this Court vide order dated 15.12.1992 (Annexure P-3). The petitioners are still in physical possession of the land in dispute. According to the petitioners, 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 petitioners submitted that the petitioners are in physical possession of the land in dispute and are ready to refund the amount of compensation along with interest received by their ancestors. 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
gbs

(REKHA MITTAL)
JUDGE