

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 645 of 2015

Date of Decision: 7.7.2015

Kamla and another

....Petitioners.

Versus

State of Haryana and another

...Respondents.

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

PRESENT: Mr. Vikram Singh, Advocate for the petitioners.

Mr. Sudeep Mahajan, Addl. Advocate General, Haryana.

Mr. Parminder Singh, Advocate for respondent No.2.

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 27.8.1987 (Annexure P-1) issued under Section 4 of the Land Acquisition Act, 1894 (in short "the Act") and dated 25.8.1988 (Annexure P-2) under Section 6 of the Act vide which their land has been acquired. Further, a writ of mandamus has been sought directing the respondents to release the land of the petitioners 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. Respondent No.1 issued a notification dated 27.8.1987 (Annexure P-1) under Section 4 of the Act followed by notification dated

25.8.1988 (Annexure P-2) under Section 6 of the Act for acquisition of land including the land of the petitioners for the development and utilization of land as institutional area in Sector 32, HUDA, Gurgaon. The award was passed on 16.3.1989. The petitioners moved various representations for the release of their houses but to no effect. They filed CWP No. 3404 of 1989 which was dismissed by this Court and SLP (Civil) No. 19471 of 2010 filed against that was also dismissed by the Apex Court. Thereafter, the petitioners submitted a representation dated 21.10.2014 (Annexure P-3) for the release of their land in view of Section 24(2) of the 2013 Act but no action has been taken. They are still in physical possession of the land in question. 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. 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 comprehensive 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 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. It is, however, made clear that in case no such representation is filed within the stipulated period as noticed above, the interim order shall cease to operate, thereafter.

(AJAY KUMAR MITTAL)
JUDGE

July 7, 2015
gbs

(REKHA MITTAL)
JUDGE