

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 8509 of 2014

Date of Decision: 23.4.2015

Rajit Ram

....Petitioner.

Versus

State of Haryana and others

...Respondents.

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

PRESENT: Mr. Sandeep Panwar, Advocate for the petitioner.

Ms. Palika Monga, Deputy Advocate General, Haryana.

AJAY KUMAR MITTAL, J.

1. In this 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 order dated 18.12.2013 (Annexure P-19) passed by respondent No.2 and for quashing the notifications dated 9.8.2002 (Annexure P-2) issued under Section 4 of the Land Acquisition Act, 1894 (in short "the Act"), dated 8.8.2003 (Annexure P-4) under Section 6 of the Act and the award dated 5.8.2005 (Annexure P-8) qua his house situated at Patti Kaisth Seth, Kaithal. Further, a writ of mandamus has been sought directing the respondent to release the house of the petitioner.

2. The petitioner purchased a plot measuring 66 square yards vide sale deed dated 15.12.1999 and constructed a puccha house over it in the year 1997. In the survey report dated 10.12.2013 (Annexure P-1)

conducted for the land for the development of Section 21, Kaithal before the issuance of notification under Section 4 of the Act, the house of the petitioner was shown as residential house constructed in the area of 66 square yards. Government of Haryana vide notification dated 9.8.2002 (Annexure P-2) issued under Section 4 of the Act followed by notification dated 8.8.2003 (Annexure P-3) under Section 6 of the Act, acquired the land including the land of the petitioner for the public purpose, i.e. for setting up residential, commercial and institutional area for Sector 21, Kaithal. The petitioner filed objections under Section 5-A of the Act. The award was passed on 5.8.2005 (Annexure P-7). The petitioner moved a representation for the release of his house. As per policy dated 26.10.2007 (Annexure P-8), only those requests were to be considered in which construction existed prior to issuance of notification under Section 4 of the Act and objection under Section 5-A of the Act has been filed. Thereafter, the petitioner sent another representation dated 18.8.2006 (Annexure P-9) for the release of his house. In suppressions of the earlier policy dated 26.10.2007 (Annexure P-9), a new policy dated 24.1.2011 (Annexure P-10) was framed vide which the requests were to be considered where objection under Section 5-A of the Act has been filed and structure has been constructed provided the structure existed prior to notification under Section 4 of the Act. The petitioner moved a representation dated 18.8.2006 (Annexure P-11) to respondent No.2 to consider his case in view of the policy dated 24.1.2011 (Annexure P-10). Since no action was taken on the said representation, the petitioner sent a legal notice dated 18.3.2012 (Annexure P-12) to the respondents to release his house and consider his case in view of the policies, Annexures P-10 and P-11, respectively, but no response was

received. Respondent No.2 vide order dated 24.4.2014 (Annexure P-17) rejected the claim of the petitioner for the release of the house from acquisition. According to the petitioner, the acquisition 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") as he is still in physical possession of the house in question. Hence, the present writ petition.

3. Learned counsel for the petitioner submitted that the petitioner is still in physical possession of the land. 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 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 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 him within a period of four

months from the date of receipt of representation. The petitioner shall be entitled to lead any evidence to substantiate his 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 23, 2015
gbs

(REKHA MITTAL)
JUDGE