

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 9081 of 2014

Date of Decision: 6.4.2015

Jagdish Chand 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. Amit Jhanji, Advocate for the petitioners.

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

Mr. Rajiv Dhawan, Advocate for
Mr. J.S. Bedi, Advocate for respondent No.3.

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 to release their land from the acquisition proceedings initiated under the Land Acquisition Act, 1894 (in short "the Act") 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"). Further, a prayer has been made for issuance of a writ of certiorari for quashing the action of the respondents whereby they have transferred the symbolic possession in their favour vide rapat roznamcha dated 25.4.2014 (Annexure P-6) inspite of the fact that the petitioners are still in the physical possession of the property in dispute.

2. State of Haryana issued a notification dated 19.10.1989

(Annexure P-1) under Section 4 of the Act followed by notification dated 21.12.1990 under Section 6 of the Act for acquisition of 50 kanal 12 marlas land including the land of the petitioners situated within the revenue estate of Pehowa, District Kurukshetra for the public purpose for land escaping, road, footpaths, widening of sacred place and various other development activities to be undertaken in Pehowa by Kurukshetra Development Board. The petitioners filed objections under Section 5-A of the Act. The father of the petitioners challenged the said acquisition proceedings by way of CWP No. 13379 of 1992 in this Court which was admitted vide order dated 26.2.1992 and stay was granted. Subsequently, the petitioners filed an application for release of their land and on the direction of the Government, the Sub Divisional Magistrate, Pehowa had conducted spot inspection and in his report observed that if the land in question would be released from acquisition proceedings, then there would be no adverse effect on the development plan of the Government. The said writ petition was dismissed by this Court vide order dated 31.3.2011 (Annexure P-3). The petitioners challenged the said order before the Supreme Court vide Civil Appeal No. 13429-13430 of 2011 which was dismissed as withdrawn vide order dated 23.8.2011 (Annexure P-4) with liberty to approach this Court with an appropriate application. According to the petitioners, the acquisition proceedings have lapsed in view of Section 24(2) of the 2013 Act as they are still in physical possession of the land in question. 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 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.

(AJAY KUMAR MITTAL)
JUDGE

April 6, 2015
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(REKHA MITTAL)
JUDGE