

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CWP No.8046 of 2015 (O&M)
Date of decision: 11.05.2015**

Tejpal and another

.....Petitioners

Vs.

The 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 with
Mr. Hardeep Singh, Advocate for the petitioners.

Ajay Kumar Mittal, J.

CM No.6043 of 2015

1. Allowed as prayed for. CM stands disposed of.

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2. The petitioners seek quashing of order dated 15.4.2015, and notifications dated 24.8.2000 & 22.8.2001, issued under sections 4 and 6 of the Land Acquisition Act, 1894 (in short, "the 1894 Act"), Annexures P.10, P.1 and P.2 respectively. Direction has also been sought to the respondents to release the land belonging to the petitioners as per Section 24(2) of the

Right of Fair Compensation and Transparency in the Land Acquisition, Rehabilitation and Resettlement Act, 2013 (in short, “the 2013 Act”) as the petitioners are still in possession as per revenue record.

3. A few facts relevant for the decision of the controversy involved as narrated in the petition may be noticed. Notification under Section 4 of the 1894 Act was issued on 24.8.2000, Annexure P.1 for a public purpose of expansion of Industrial Sector 57 at Gurgaon. Notification under Section 6 of the 1894 Act was issued on 22.8.2001, Annexure P.2. The petitioners filed objections under Section 5A of the 1894 Act. According to the petitioners, there is construction on the land in question. They are in continuous physical possession. They submitted representation on 10.6.2011, Annexure P.6 for release of their land in view of Section 24(2) of the 2013 Act but no action has been taken. Hence the instant writ petition.

4. We have heard learned counsel for the petitioners.

5. Learned counsel for the petitioners submitted that possession of the constructed structure is of the petitioners and no compensation had been paid to them.

6. The finding recorded by the Additional Chief Secretary to Government of Haryana, Urban Estates Department, Chandigarh in the impugned order dated 15.4.2015, Annexure P.10 reads thus:-

“4. LAO Gurgaon informed that petitioners' land measuring 1B-15B-OB bearing Khasra No.1501 was notified under section 4 and under section 6 of LA Act on 24.8.2000 and 22.8.2001 respectively. The land was acquired vide award No.9 on 21.7.2003 and possession of the land has been handed over to HUDA vide rapat No.569 dated 21.7.2003. The said award was announced for land measuring 250.55 acres. The total

compensation amount was ₹ 48,77,11,125/- out of which ₹ 34,56,67,091/- (70.88%) has been disbursed to the land owners/deposited in the Hon'ble District Court. The petitioner Shri Tejpal son of Shri Rampat has received compensation amount of ₹ 10,82,812/- for his share of land vide cheque No.366364 dated 14.8.2012. Similarly, the petitioner Shri Mohinder Singh s/o Shri Rampat has also received compensation amount INR10,82,812/- for his share of land vide cheque No.366364 dated 14.8.2012. The award of well and tubewell room was announced vide award No.46 dated 31.3.2006 and the possession was handed over to HUDA. The compensation of structures amounting to ₹ 42,663/- has not been taken by the land owners.

5. CA, HUDA apprised that petitioners have erected boundary wall and temporary room with G.I sheet roofing on Khasra No.1501 during the night of 21.2.2014 and 22.12.2014. The possession of land is with HUDA and the petitioners are unauthorized occupants/encroachers. The site falls in Sector 52 Gurgaon and it affects two group housing sites, a commercial site, 12.0 mtrs wide service road and 30.0 mtrs wide sector dividing road.”

7. A perusal of the above shows that petitioners Tejpal and Mahender Singh were paid compensation of ₹ 10,82,812/- each vide cheques Nos.366363 and 366364 dated 14.8.2012. It has also been recorded that the petitioners erected boundary wall and temporary room with GI sheet roofing on Khasra No.1501 during the night of 21.12.2014 and 22.12.2014. The possession of the land is with HUDA and the petitioners are unauthorised occupants/encroachers. In such a situation, the petitioners have not been able to establish by cogent and convincing evidence that they are in authorised possession of the property in dispute. Compensation has

already been paid to the petitioners. Learned counsel for the petitioners has not been able to controvert the findings recorded in the order Annexure P.10 passed by the Additional Chief Secretary to Government of Haryana. Thus, the case of the petitioners does not fall under the provisions of Section 24 (2) of the 2013 Act. Moreover, the land was acquired in the years 2000 and 2001. Consequently, finding no merit in the petition, the same is hereby dismissed.

(Ajay Kumar Mittal)
Judge

May 11, 2015
'gs'

(Rekha Mittal)
Judge