

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 9581 of 2014

Date of Decision: 23.4.2015

Chandeshwar

....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.

Mr. Arvind Seth, Advocate for the respondent-HUDA.

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 24.4.2014 (Annexure P-17) 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-7) 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 180 square yards comprised in khewat No. 551, khatauni Nos. 751-752-753, situated

within the revenue estate of Patti Kaisth Seth, Kaithal vide sale deed dated 10.7.1997. In the year 2002, survey of the land for the development of Sector 21, Kaithal was conducted before the issuance of notification under Section 4 of the Act wherein the house of the petitioner was shown having two rooms along with boundary in the area of 150 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-4) 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 on 21.8.2002 (Annexure P-3). The award was passed on 5.8.2005 (Annexure P-8). The petitioner moved a representation dated 18.7.2006 (Annexure P-9) to respondent No.3 for the release of his house. As per policy dated 26.10.2007 (Annexure P-10), 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 24.12.2004 (Annexure P-11) for the release of his house. In suppressions of the earlier policy dated 26.10.2007 (Annexure P-10), a new policy dated 24.1.2011 (Annexure P-12) 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 18.5.2011 (Annexure P-13) to respondent No.3 to consider his case in view of the policy dated 24.1.2011 (Annexure P-12). Since no action was taken on the said

representation, the petitioner sent a legal notice dated 18.1.2012 (Annexure P-14) to the respondents to release his house and consider his case in view of the policies, Annexures P-11 and P-12, respectively, but no response was received. The petitioner is living in his house since the year 1997 as per certificate issued dated 8.8.2013 (Annexure P-17) issued by the Municipal Councillor of the area. Thereafter, the petitioner filed CWP No. 18894 of 2013 which was decided by this Court vide order dated 29.8.2013 in terms of order passed in CWP No. 16214 of 2013 whereby the house of the petitioner therein was released by the respondents by passing a speaking order. The Estate Officer, HUDA, Kaithal vide notice dated 22.8.2013 (Annexure P-18) directed the petitioner to vacate the house in question within three days otherwise the same would be demolished. Respondent No.2 vide order dated 18.12.2013 (Annexure P-19) rejected the claim of the petitioner for the release of the house from acquisition and recommended for allotment of a 100 square yards plot in lieu of his 180 square yards acquired land. 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"). Hence, the present writ petition.

3. Learned counsel for the petitioner submitted that the petitioner is still in physical possession of the land and the compensation has not been paid to him. 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