

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 9593 of 2014

Date of Decision: 23.4.2015

Bholi Devi

....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. Raman Gaur, 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-18) 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-5) under Section 6 of the Act and the award dated 5.8.2005 (Annexure P-7) qua her 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 270 square yards comprised in rectangle No. 82, Killa No.5, situated within the revenue

estate of Patti Kaisth Seth, Kaithal vide sale deed dated 30.11.1988. 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 as a residential house constructed in an area of 270 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-5) 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 2.9.2002 (Annexure P-3). The objection was decided showing the double story kothi 'A' class construction in the area of 270 square yards vide report, Annexure P-4. The award was passed on 5.8.2005 (Annexure P-7). The petitioner moved a representation dated 5.8.2005 (Annexure P-8) to respondent No.4 for not acquiring her house. As per policy dated 26.10.2007 (Annexure P-11), 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 21.11.2007 (Annexure P-12) for the release of her house. In suppressions of the earlier policy dated 26.10.2007 (Annexure P-11), a new policy dated 24.1.2011 (Annexure P-13) 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 22.2.2011 (Annexure P-14) to

respondent No.2 to consider her case in view of the policy dated 24.1.2011 (Annexure P-13). Since no action was taken on the said representation, the petitioner sent a legal notice dated 21.3.2012 (Annexure P-15) to the respondents to release her house and consider her case in view of the policies, Annexures P-11 and P-13, respectively, but no response was received. Thereafter, the petitioner filed CWP No. 174 of 2014 which was decided by this Court vide order dated 10.1.2014 directing the respondents to consider the claim of the petitioner regarding release of her residential house from acquisition and pass a speaking order within a period of four months. Respondent No.2 vide order dated 24.4.2014 (Annexure P-18) 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 she 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 her 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