

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 8381 of 2015

Date of Decision: 1.5.2015

Sham Lal and others

....Petitioners.

Versus

State of Haryana and others

...Respondents.

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

PRESENT: Mr. N.C. Kinra, Advocate for the petitioners.

AJAY KUMAR MITTAL, J.

1. In this petition filed under Articles 226/227 of the Constitution of India, the petitioners have prayed for issuance of a writ in the nature of certiorari for quashing the notifications dated 2.3.1993 (Annexure P-4) issued under Section 4 of the Land Acquisition Act, 1894 (in short "the Act") and dated 1.3.1994 (Annexure P-5) under Section 6 of the Act qua their land as the acquisition proceedings are deemed to 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").

2. The petitioners are owners in possession of the land as detailed in para 2 of the petition. After purchase, they raised construction over it. Government of Haryana vide notification dated 2.3.1993 (Annexure P-4) issued under Section 4 of the Act followed by

notification dated 1.3.1994 (Annexure P-5) under Section 6 of the Act acquired the land of the petitioners for the public purpose, namely, for residential and commercial area, Sector 12, Sonapat. The award was passed on 28.2.1996. The District Town Planner issued notices under the Punjab Schedule Roads and Controlled Areas Restrictions of Unregulated Development Act, 1963 (for brevity, "1963 Act") and partly demolished the constructions raised by the petitioners. The petitioners filed appeal before the Tribunal constituted under the 1963 Act. The Tribunal dismissed the said appeal vide order dated 9.10.2001 (Annexure P-6) with a direction to the authorities to consider the matter for compounding as the construction was very old. In pursuance thereto, the petitioners approached the authorities but to no effect. Thereafter, they served a legal notice dated 30.4.2010 (Annexure P-7) upon the respondents and the District Town Planner relegated the petitioners for compounding to the competent authority. The petitioners moved an application dated 22.12.2010 upon which the District Town Planner vide letter dated 22.2.2011 (Annexure P-8) directed the petitioners to apply for permission for change of land use and compounded of unauthorized construction. The petitioners filed CWP No. 3294 of 2011 and this Court vide order dated 23.2.2011 (Annexure P-9) disposed of the writ petition by directing the respondents to consider and decide the legal notice dated 30.4.2010 (Annexure P-7). The petitioners again served legal notice dated 6.6.2013 (Annexure P-10) upon the respondents. Again the petitioners filed CWP No. 24095 of 2013 which was disposed of by this Court vide order dated 31.10.2013 (Annexure P-11) directing respondent No.2 to decide the application submitted by the petitioners for regularization of unauthorized

construction raised by them within a period of three months. The District Town Planner vide order dated 7.2.2014 (Annexure P-12) disposed of the matter directing the petitioners to approach the appropriate authority. The petitioners are still in physical possession of the land in question. No compensation has been paid to them. According to the petitioners, the acquisition proceedings have lapsed in view of Section 24(2) of the 2013 Act. Hence, the present writ petition.

3. Learned counsel for the petitioners submitted that the petitioners are in physical possession of the land in dispute and compensation has not been paid to them. 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 petitioners, 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. It is, however, made clear that in case no such representation is filed within the stipulated period as noticed above, the interim order shall cease to operate, thereafter.

(AJAY KUMAR MITTAL)
JUDGE

May 1, 2015
gbs

(REKHA MITTAL)
JUDGE