

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 8450 of 2015

Date of Decision: 1.5.2015

Suresh Kumar 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 order dated 9.6.2014 (Annexure P-9) and the acquisition proceedings including notifications dated 17.5.1990 (Annexure P-4) issued under Section 4 of the Land Acquisition Act, 1894 (in short "the Act"), dated 12.5.1993 (Annexure P-5) under Section 6 of the Act and the award dated 12.5.1993 (Annexure P-5/1) and to release the same as having 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 measuring 400 square yards situated in Mouza Patti Mussalman, Sonapat. After purchase, they raised construction over it. Government of Haryana vide notification dated 17.5.1990 (Annexure P-4) issued

under Section 4 of the Act followed by notification dated 16.5.1991 (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 petitioners filed objections under Section 5-A of the Act. The award was passed on 12.5.1993 (Annexure P-5/1). The petitioners challenged the said notifications by way of CWP No. 4460 of 1993 and this Court vide order dated 11.7.2013 (Annexure P-7) passed in CWP No. 4498 of 1993 allowed the writ petitions. The respondents got the survey report, Annexure P-8, and vide order dated 9.6.2014 (Annexure P-9) declined to release the acquired land of the petitioners. They made representation dated 15.11.2014 (Annexure P-10) to respondents No.1, 3 and 4 for release of their land in view of Section 24(2) of the 2013 Act but to no effect. Thereafter, the petitioners filed CWP No. 26090 of 2014 which was dismissed as withdrawn by this Court vide order dated 19.12.2014 (Annexure P-11) with liberty to the petitioners to pursue the representation dated 15.11.2014 already submitted by them. Since no action was taken on the representation of the petitioners, they sent a reminder dated 27.12.2014 (Annexure P-12) but no response was received. They 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