

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 8581 of 2015

Date of Decision: 4.5.2015

Hukam Chand 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. Ashwani Talwar, Advocate with
Mr. Rahul Garg, Advocate for the petitioners.

AJAY KUMAR MITTAL, J.

1. By way of instant petition filed under Articles 226/227 of the Constitution of India, the petitioners have prayed for issuance of a writ in the nature of mandamus holding that the acquisition of their land has 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 17 marlas situated at village Bhainsa Tibba, Tehsil and District Panchkula. State of Haryana issued a notification dated 27.8.1981 (Annexure P-2) issued under Section 4 of the Land Acquisition Act, 1894 (in short "the Act") followed by notification dated 10.1.1983 (Annexure P-3) under Section 6 of the Act for acquisition of 551.67 acres of land of village Bhainsa Tibba, Tehsil and District

Panchkula including the land of the petitioners for the public purpose, namely, for the development and utilization of land as residential and commercial area for Panchkula extension. The award was passed on 2.2.1984 (Annexure P-4). After the announcement of the award, the petitioners approached the authorities along with all the necessary documents for the release of their land as they had constructed houses in which they were residing but to no effect. Thereafter, they filed CWP No. 739 of 1984 for quashing of the said notifications. This Court vide orders dated 8.2.1984 (Annexure P-5) and dated 21.2.1984 (Annexure P-6) issued notice of motion and stayed dispossession of the petitioners. Status quo regarding possession was passed by this Court vide order dated 17.4.1984 (Annexure P-7). Ultimately, this Court vide order dated 28.3.2001 (Annexure P-8) allowed the writ petition and directed the respondents not to acquire the land of the houses of the petitioners where construction existed. However, the respondents were given liberty to move objection petition in case they objected to the proposed order. State of Haryana moved objection petition in which this Court vide order dated 31.1.2007 (Annexure P-9) made certain observations. This Court vide order dated 21.3.2007 (Annexure P-12) dismissed the said writ petition. Being aggrieved, the petitioners along with others filed LPA No. 109 of 2007 and this Court vide order dated 7.5.2008 (Annexure P-13) issued notice and passed status quo order regarding the property in question. The said appeal was dismissed by this Court vide order dated 20.7.2009 (Annexure P-14). The petitioners along with others challenged the said order in the Supreme Court by way of SLP No. 21595 of 2009. The Apex Court vide order dated 24.2.2015 (Annexure P-16) granted liberty to the petitioners to make appropriate application as provided

under Section 24(2) of the 2013 Act before the appropriate authority/forum which was directed to consider the same in accordance with law. 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 still 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 4, 2015
gbs

(REKHA MITTAL)
JUDGE