

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 8585 of 2015

Date of Decision: 4.5.2015

Mahindro 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. Ashwani Talwar, Advocate with
Mr. Rahul Garg, Advocate for the petitioner.

AJAY KUMAR MITTAL, J.

1. By way of instant petition filed under Articles 226/227 of the Constitution of India, the petitioner has prayed for issuance of a writ in the nature of mandamus holding that the acquisition of her 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 petitioner is owner in possession of the land measuring 8 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

petitioner 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 petitioner approached the authorities along with all the necessary documents for the release of her land as she had constructed house in which she was residing but to no effect. Thereafter, one Shanti Devi mother-in-law of the petitioner along with others 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. 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 house of the petitioner 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 mother-in-law of the petitioner 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 petitioner 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 petitioner

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 petitioner is still in physical possession of the land in question. No compensation has been paid to her. According to the petitioner, 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 petitioner submitted that the petitioner is still in physical possession of the land in dispute and compensation has not been paid to her. 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 petitioner, 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 her 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. 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