

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 9484 of 2015

Date of Decision: 14.5.2015

Daya Kaur 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 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 certiorari for quashing the notifications dated 22.6.2006 (Annexure P-1) issued under Section 4 of the Land Acquisition Act, 1894 (in short "the Act"), dated 20.6.2007 (Annexure P-2) under Section 6 of the Act and the award dated 28.11.2008 (Annexure P-3) qua their land 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 29 kanal 16 marlas situated at village Badh Khalsa, Tehsil and District Sonapat. State of Haryana issued a notification dated 22.6.2006 (Annexure P-1) issued under Section 4 of the Act followed by

notification dated 20.6.2007 (Annexure P-2) under Section 6 of the Act for acquisition of the land of the petitioners for the development of industrial Sector 38, Sonapat. The petitioners submitted objections under Section 5-A of the Act on 25.7.2006 (Annexure P-7). The petitioners moved an application before the Tehsildar-cum-Assistant Collector for measurement of the land of the petitioners and for report regarding the constructions existing at the site and for correction of the girdawari. On the directions of the Tehsildar-cum-Assistant Collector, the Kanungo of the concerned area visited the site and submitted his report dated 15.9.2006 (Annexure P-11) mentioning that the constructions existed on the site. The girdawari (Annexure P-12) which was corrected also showed that there are constructions existed on the entire land. There is Sanjit Saw Mill duly registered under the Haryana General Sales Tax Act, 1973 vide certificate dated 10.3.2000 (Annexure P-13) which is functional since 1999 till date. The assessing authority vide order dated 10.3.2000 (Annexure P-14) allowed the said saw mill to manufacture, sell and re-sale, timber and timber products, packing cases, wooden drums etc. The site plan, Annexure P-16 also shows the constructions over the land of the petitioners. The petitioners and their predecessors-in-interest filed CWP No. 19912 of 2008 challenging the notifications. This Court vide order dated 3.3.2011 (Annexure P-19) dismissed the said writ petition. The SLP against the said order was dismissed by the Apex Court vide order dated 11.7.2011 (Annexure P-20) and the review petition filed against the same was also dismissed vide order dated 15.11.2011 (Annexure P-21). 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 14, 2015
gbs

(REKHA MITTAL)
JUDGE