

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 9834 of 2015

Date of Decision: 26.5.2015

Shambir and another

....Petitioners.

Versus

State of Haryana and others

...Respondents.

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

PRESENT: Mr. Sandeep Sharma, 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 directing the respondents to release their land as they have released the land of other private builders and landowners vide orders dated 6.1.2009 (Annexure P-7), dated 26.8.2010 (Annexure P-8), dated 28.4.2011 (Annexure P-9) dated 31.12.2010 (Annexure P-10) and dated 31.12.2013 (Annexure P-11).

2. The petitioners are owners in possession of the land measuring 6 kanal 15 marlas situated in village Baroli, District Faridabad and have constructed their residential house and cattle shed thereon. Government of Haryana vide notification dated 1.5.2006 (Annexure P-1) issued under Section 4 of the Land Acquisition Act, 1894 (in short "the Act") followed by notification dated 30.4.2007 (Annexure P-2) under

Section 6 of the Act, acquired the land including the land of the petitioners for the development of residential and commercial Sectors 75 and 80, Urban Estate, Faridabad. The respondents have issued license/CLU to the private builders after passing the award in the same area. They cannot utilize the land of the petitioners in any manner because the area is existing in the residential sector of the private builder, namely, BPTP in Sector 75, Urban Estate, Faridabad. There is no planning on the land of the petitioners and the respondents have not developed any sector in the vicinity adjacent to the land of the petitioners. The respondents have released most of the land of the influential persons from acquisition. The award was passed on 24.4.2009 (Annexure P-3). The petitioners are still in physical possession of the land in dispute. No compensation has been paid to them. According to the petitioners, the acquisition proceedings 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"). Release of land has also been sought claiming parity with the averments that the land of similarly situated persons has been released. 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. The claim was made for the release of land on parity with the private builders whose land has been released from acquisition. 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 one month 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 three 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 26, 2015
gbs

(REKHA MITTAL)
JUDGE

