

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 10117 of 2016

Date of Decision: 20.5.2016

Jarnail Singh and another

....Petitioners.

Versus

State of Haryana and others

...Respondents.

1. Whether the Reporters of the local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

**CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MRS. JUSTICE RAJ RAHUL GARG.**

PRESENT: Mr. Vikram Singh, Advocate for the petitioners.

AJAY KUMAR MITTAL, J.

1. Through the 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 order dated 5.4.2016 (Annexure P-5) and the notification dated 12.12.1983 (Annexure P-2) issued under Section 6 of the Land Acquisition Act, 1894 (in short “the Act”). Further, a writ of mandamus has been sought directing the respondents to release the land of the petitioners 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”) as they are still in physical possession thereof

and compensation has not been paid to them.

2. The petitioners are owners in possession of the land measuring 9 biswa situated at Kasba Karnal, District Karnal. Government of Haryana issued a notification dated 13.1.1981 under Section 4 of the Act followed by notification dated 12.12.1983 (Annexure P-2) under Section 6 of the Act for acquisition of land of the petitioners for utilization and development of Sector 14, Part II, Karnal. The award was passed on 28.3.1995. As per the photographs, Annexure P-1, the petitioners are still in physical possession of the land and no compensation has been paid to them. The petitioners made a representation dated 10.8.2014 (Annexure P-3) to respondent No.1 for release of their land in view of Section 24(2) of the 2013 Act, but to no effect. Thereafter, the petitioners and others filed CWP No. 24940 of 2014 and this Court vide order dated 5.12.2014 (Annexure P-4) disposed of the said writ petition with a direction to respondent No.1 to decide the representation of the petitioners. In pursuance thereto, respondent No.1 rejected the claim of the petitioners vide order dated 5.4.2016 (Annexure P-5). According to the petitioners, the acquisition proceedings have lapsed in view of Section 24(2) of the 2013 Act as they are still in physical possession of the land in question and no compensation has been paid to them. Hence, the present writ petition.

3. Learned counsel for the petitioners submitted that the petitioners are in physical possession of the land in dispute. No compensation has been paid to them. It was further submitted that they have moved a representation dated 10.8.2014 (Annexure P-3) to respondent No.1 for the release of their land from acquisition in view of Section 24(2) of the 2013 Act, but no response has been received till

date. They, however, prayed that 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 and 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 20, 2016
gbs

(RAJ RAHUL GARG)
JUDGE