

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 10882 of 2016

Date of Decision: 28.5.2016

Savita Rani and another

....Petitioners.

Versus

The 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. Rajnish Gupta, Advocate for the petitioners.

AJAY KUMAR MITTAL, J.

1. In this 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 11.7.2006 (Annexure P-2) issued under Section 4 of the Land Acquisition Act, 1894 (in short "the Act"), dated 16.7.2007 (Annexure P-4) under Section 6 of the Act and the award dated 23.6.2009 (Annexure P-7) having 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") as they are still in physical possession and no compensation has been paid to them.

2. The petitioners have purchased two plots measuring about 1838 square yards and 700 square yards in khasra Nos. 3260 and 3261 vide registered sale deeds dated 29.4.1997 and 5.11.1997 (Annexure P-1 Colly). They have constructed some portion of the plots and raised boundary walls on the entire chunk of land. State of Haryana vide notification dated 11.7.2006 (Annexure P-2) issued under Section 4 of the Act followed by notification dated 16.7.2007 (Annexure P-4) under Section 6 of the Act, acquired the land including the land of the petitioners for the purpose of development of Industrial Estate, Karnal in Sector 3 of Kasba Karnal and village Kambhopura, Tehsil and District Karnal. The petitioners filed objections under Section 5-A of the Act. However, residential houses, farm houses, poultry farm, defunct cold storage of certain influential persons were left out, but the houses of the petitioners were not released from the said acquisition. Accordingly, the petitioners along with others sent a legal notice dated 29.7.2009 (Annexure P-5) for release of the land in question. The District Town Planner processed the matter on behalf of the Chief Administrator, Haryana Urban Development Authority (Town Planning Wing) vide letter dated 22.12.2008 (Annexure P-6) with respondent No.2 for cancellation of the acquisition. The award was passed on 23.6.2009 (Annexure P-7). After the passing of the award on 23.6.2009, vide letter dated 4.11.2009 (Annexure P-8) certain parcels of the land had been released by the respondents. As per *ak shijra* (Annexure P-9), respondent No.2 exercising its power under Section 48 of the Act, released the land abutting the land of the petitioners falling in khasra Nos. 3259 and 3262 whereas the land of the petitioners falling in khasra Nos. 3260 and 3261

has not been released. The petitioners and other landowners filed CWP Nos. 19996 of 2009, 3872 and 761 of 2010 which were decided by this Court. Even after the decision of the aforesaid writ petitions, the respondents issued another notification dated 3.1.2013 (Annexure P-10) partly withdrawn from the acquisition of the land acquired vide notification dated 27.4.2006. Petitioner Nos.1 and 2 applied for allotment of a plot under R&R Policy dated 7.12.2007 and respondent No.2 vide letters dated 18.11.2013 (Annexures P-11 and P-12, respectively) held them ineligible for the allotment of plot under R&R Policy. Thereafter, the petitioners made a representation dated 15.12.2013 (Annexure P-13) to respondent No.2 for release of their land in question, but to no effect. Similarly situated persons filed CWP Nos. 5634 and 12717 of 2013 and this Court vide orders dated 15.3.2013 (Annexure P-14) and dated 4.7.2013 (Annexure P-15) disposed of the said writ petitions with a direction to the respondents to consider the claim of the petitioners therein. The petitioners also filed CWP No. 6258 of 2014 on the strength of two notifications dated 4.11.2009 and 3.1.2013 whereby the land abutting the land of the petitioners was released and this Court vide order dated 1.4.2014 (Annexure P-16) directed the respondents to decide the representation of the petitioners. Vide order, Annexure P-17, the claim of the petitioners was rejected by the respondents. 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 question 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 the petitioners have sent legal notice dated 29.7.2009 (Annexure P-5) followed by a representation dated 15.12.2013 (Annexure P-13) to the Chief Secretary, Haryana and respondent No.1 for release of the land in question, but no action has so far been taken thereon. He, 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, 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 the petitioners 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 28, 2016
gbs

(RAJ RAHUL GARG)
JUDGE