

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 11536 of 2016

Date of Decision: 2.6.2016

Dalip Kumar and others

....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. Sunil Kumar Nehra, 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 mandamus directing the respondent-authorities to release their land/residential houses in area measuring 4 kanal 16 biswas owned by their grandfather from acquisition.

2. The grandfather of petitioners No.1 to 13 and father-in-law of petitioners No.14 and 15, namely, Late Shri Tulsi Dass was allotted the land measuring 4 bigha 16 biswas comprised in old khasra Nos. 19/6 (4-14), 19/6 (0-2) which were later on changed to khasra Nos. 23//17(3-18), 18(0-16), 18/2 (1-1) and 24/1(2-5) situated within the revenue estate of Patti Jhambra, Shahbad Markanda, Tehsil Thanesar, District

Kurukshetra being a displaced person from Pakistan during partition. The conveyance deed dated 25.9.1985 (Annexure P-1) was also executed. The Managing Officer (UL), Tehsildar vide its letter dated 28.2.1966 (Annexure P-2) informed that the land in question had been transferred in favour of Late Shri Tulsi Ram under the Displaced Persons (Compensation and Rehabilitation) Amendment Rules, 1960. State of Haryana vide notification dated 2.12.1982 (Annexure P-3) issued under Section 4 of the Land Acquisition Act, 1894 (in short "the Act") followed by notification dated 26.9.1987 under Section 6 of the Act acquired the land including the land of the petitioners for public purposes for the development and utilization of land residential, industrial and commercial. Petitioner No.1 filed a claim petition dated 4.7.1984 (Annexure P-4) under Section 9 of the Act. Shri Tulsi Ram moved a representation to the Prime Minister of India for not acquiring the land and houses of the petitioners as there were pucca houses which fall within the municipal limits of Shahbad Markanda. The Section Officer, office of the Prime Minister vide letter dated 4.12.1986 (Annexure P-5) informed Shri Tulsi Ram that his letter has been sent to the Chief Secretary, Haryana for necessary action. Vide letter dated 15.12.1986 (Annexure P-6), Shri Tulsi Ram was informed that his case was being sent to the Chief Minister, Haryana for necessary action. Shri Tulsi Ram made a representation dated 18.1.1987 (Annexure P-7) to the Chief Minister, Haryana for leaving his land from Housing Board Colony and to allot the land measuring 3 kanals lying vacant. In pursuance thereto, respondent No.4 vide letter dated 23.3.1987 (Annexure P-8) sent the representation of Shri Tulsi Ram for release of built house from acquisition to respondent No.5 for report. The land measuring 1 kanal 6

marlas bearing khasra No. 45/25 was also acquired by the same notification. On a representation being made by Shri Sachiv Singh and others member of his family, the Director, Urban Development, Haryana vide its letter dated 11.3.1987 (Annexure P-9) informed the Development Officer, Panchkula that the land of Shri Sachiv Singh and others had been released from acquisition. Similarly, Shri Jyoti Parsad and others made a representation for release of their land upon which the Director, Urban Development, Haryana vide its letter dated 8.4.1987 (Annexure P-10) informed the Revenue Officer, Kurukshetra and land of Shri Jyoti Parsad had been released. The land of Shri Surjit Singh measuring 1 kanal 11 marlas was also released on the representation being made by him as informed by the Director, Urban Development, Haryana vide its letter dated 9.3.1987 (Annexure P-11) to the Revenue Officer, Kurukshetra. The land of one of the brothers of the petitioners, namely, Shri Jaswant Singh was also released on a representation being made by him as informed by the Director, Urban Development, Haryana vide its letter dated 31.7.1987 (Annexure P-12) to the Revenue Officer, Kurukshetra. The grandfather of the petitioners and petitioners No.1 and 2 filed CWP No. 4871 of 1988 which was dismissed by this Court vide order dated 22.9.2011 (Annexure P-13). Against the order, Annexure P-13, the petitioners filed SLP (Civil) CC No. 4115 of 2012 and the said SLP was dismissed by the Supreme Court vide order dated 16.3.2012 (Annexure P-14). As per notice dated 15.1.2014 (Annexure P-15), the respondents are not in the need of the land of the petitioners. The petitioners are still in physical possession of the land in question. However, some of the petitioners have withdrawn the amount of compensation and they are ready to deposit the same along with

interest. 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"). Hence, the present writ petition.

3. Learned counsel for the petitioners submitted that the petitioners are in physical possession of the land in dispute. However, some of the petitioners who have withdrawn the amount of compensation, are ready to deposit the same along with interest. 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

June 2, 2016
gbs

(RAJ RAHUL GARG)
JUDGE