

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 11833 of 2016

Date of Decision: 3.6.2016

Gurmit Kaur @ Gurmeet Kaur 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. Navmohit Singh, 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 acquisition made qua their land vide notifications dated 30.5.2005 (Annexure P-3) issued under Section 4 of the Land Acquisition Act, 1894 (in short "the Act"), dated 22.5.2006 (Annexure P-5) under Section 6 of the Act and the award dated 16.7.2007 (Annexure P-6), 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").

2. The petitioners are owners of plot No. 53 measuring 240 square yards situated in Vishnu Garden Colony (a regularized colony), Block No.2 within the Municipal limits of Jagadhri vide sale deed dated 30.1.2001 (Annexure P-1). The Vishnu Garden Colony was regularized vide order dated 17.12.2004 (Annexure P-2) as more than 50% of the houses has been constructed and roads are wide enough for movement of vehicles. Government of Haryana vide notification dated 30.5.2005 (Annexure P-3) issued under Section 4 of the Act followed by notification dated 22.5.2006 (Annexure P-6) under Section 6 of the Act, acquired the land of the petitioners. The award was passed on 16.7.2007 (Annexure P-6). The Joint Site Inspection Committee (JSIC) vide report dated 25.1.2006 (Annexure P-4) recommended for release of regularized colonies like Vishnu Garden, Rakshak Vihar, Satsang Vihar and Atam Nagar. This Court vide orders, Annexures P-7 to P-15, respectively allowed the various writ petitions and released the land of the petitioners therein from the acquisition. The District Town Planner, Yamuna Nagar issued No Objection Certificate dated 4.5.2012 (Annexure P-16) to the petitioners for registration of sale of land inside urban area/controlled area. In pursuance thereto, petitioner No.1 sold the plot to petitioners No.2 and 3 vide sale deed dated 7.5.2012 (Annexure P-17). CWP No. 8079 of 2012 (Annexure P-19) filed by petitioner No.1 was dismissed as withdrawn by this Court vide order dated 11.12.2012 (Annexure P-18). Petitioner No.1 moved a representation dated 11.4.2016 (Annexure P-20) to respondent No.3 for release of the land, but to no effect. The petitioners are still in physical possession of the land in dispute and 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 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

June 3, 2016
gbs

(RAJ RAHUL GARG)
JUDGE