

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 1721 of 2016

Date of Decision: 24.5.2016

Smt. Sharda Devi

....Petitioner.

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. Dushyant Sarvesh, Advocate for the petitioner.

Mr. Saurabh Mago, AAG, Haryana.

Mr. Prateek Mahajan, Advocate for respondent No.3.

AJAY KUMAR MITTAL, J.

1. By way of instant petition filed under Articles 226/227 of the Constitution of India, the petitioner has prayed for issuance of a writ in the nature of certiorari for quashing the notifications dated 22.1.1981 (Annexure P-1) issued under Section 4 read with Section 17 of the Land Acquisition Act, 1894 (in short "the Act"), dated 23.1.1981 (Annexure P-2) under Section 6 of the Act, the award dated 19.4.1984 (Annexure P-3) and all subsequent proceedings qua her land, 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 petitioner is owner of the land measuring 8 kanal 11 marlas situated within the revenue estate of village Hodal Patti Tihar, Tehsil Palwal, District Faridabad. Government of Haryana vide notification dated 22.1.1981 (Annexure P-1) issued under Section 4 read with Section 17 of the Act followed by notification dated 23.1.1981 (Annexure P-2) under Section 6 of the Act, acquired the land including the land of the petitioner for extension of grain market, office staff quarters, goods shed and farmers' rest house Market Committee, Hodal. The award was passed on 19.4.1984 (Annexure P-3). The petitioner filed CWP No. 5588 of 1984 challenging the said acquisition proceedings. This Court vide order dated 26.2.1985 (Annexure P-4) quashed the notifications issued under Sections 4 and 6 of the Act. Against the order, Annexure P-4, the Market Committee, Hodal, filed SLP (Civil) No. 1674 of 1995 which was converted into Civil Appeal No. 10498 of 1995 and the Apex Court vide order dated 6.11.1995 (Annexure P-5) set aside the order dated 26.2.1985 (Annexure P-4). In pursuance to the order, Annexure P-5, the petitioner filed a reference under Section 18 of the Act to which the Land Acquisition Collector filed reply, both are appended as Annexure P-6 (Colly). The District Judge vide award dated 1.4.2009 (Annexure P-7) awarded ₹ 22.50 per square yard to the petitioner along with all statutory benefits. The petitioner is still in physical possession of the land in question. No compensation has been paid to her. According to the petitioner, 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 petitioner submitted that the petitioner is still in physical possession of the land in question and compensation has not been paid to her. 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 petitioner 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 parties, 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 petitioner 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 petitioner 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 petitioner within a period of four months from the date of receipt of representation. The petitioner shall be entitled to lead any evidence to substantiate her 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 24, 2016
gbs

(RAJ RAHUL GARG)
JUDGE