

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 2423 of 2016

Date of Decision: 4.4.2016

Smt. Mamta

....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. Rose Gupta, Advocate for the petitioner.

AJAY KUMAR MITTAL, J.

1. In this writ 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 26.4.2007 (Annexure P-1) issued under Section 4 of the Land Acquisition Act, 1894 (in short "the Act") and dated 25.4.2008 (Annexure P-2) issued under Section 6 of the Act for acquisition of land situated at village Palwas, Tehsil and District Bhiwani for the public purpose, namely, for the development of Transport and Communication, Sector 31, Bhiwani including the land of the petitioner measuring 2 kanal 1¼ marlas comprised in khewat No. 131, khatauni No. 169, khasra No. 172//9(8-0), khewat No. 324, khatauni No. 408, khasra Nos. 171//9/2(1-12), 10(8-0),

11(8-0), 172//6/2 (3-2), 15/1(6-4) measuring 34 kanal 18 marlas and khewat No. 842, khatauni No. 1062, khasra No. 172//4/2 (3-11), 7(8-0), 8 (8-0), 13(8-0), 14(8-0), 15/2(1-16), measuring 37 kanal 7 marlas situated at village Palwas, Tehsil and District Bhiwani vide registered sale deed dated 31.3.2006 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"). Further, a prayer has been made for quashing the reply dated 11.1.2016 (Annexure P-5) sent by respondent No.2 with reference to the legal notice dated 17.11.2015 (Annexure P-4).

2. The petitioner purchased the land in question vide registered sale deed dated 31.3.2006 and mutation thereof was sanctioned on 30.9.2006. Respondent No.1 issued a notification dated 26.4.2007 (Annexure P-1) under Section 4 of the Act followed by notification dated 25.4.2008 (Annexure P-2) under Section 6 of the Act for acquisition of land measuring 348.25 acres including the land of the petitioner situated at village Palwas, Tehsil and District Bhiwani for the development of Transport and Communication, Sector 31, Bhiwani. The award dated 23.4.2010 (Annexure P-3) was passed. Against the said award, the references filed under Section 18 of the Act by the petitioner and other land owners were decided by the Additional District Judge, Bhiwani vide judgment dated 30.5.2011. Against the said judgment, the State as well as the petitioner filed appeals which were dismissed by this Court vide judgment dated 15.5.2012 passed in RFA No. 7984 of 2011 and the SLP against the said judgment was also dismissed by the Supreme Court. According to the petitioner, a period of more than five years had expired from the date of passing of the award, i.e. 23.4.2010

neither the physical possession of the land in question has been taken by the respondents nor any steps have been taken for the development of the acquired land. The petitioner sent a legal notice dated 17.11.2015 (Annexure P-4) to respondent No.1 for cancellation of the acquisition of the land of the petitioner. Thereafter, the petitioner received a reply dated 11.1.2016 (Annexure P-5) rejecting her claim. Hence, the present writ petition.

3. We have heard learned counsel for the petitioner.

4. It is the admitted position that the land of the petitioner was acquired in the year 2008 for a public purpose, namely, for the development of Transport and Communication, Sector-31, Bhiwani. The award was passed on 23.4.2010. The claim of the petitioners under Section 24(2) of the 2013 Act cannot be accepted as the award was announced on 23.4.2010. It would be expedient to refer to Section 24(2) of the 2013 Act, which is in the following terms:-

“24. (2) Notwithstanding anything contained in sub-section (1), in case of land acquisition proceedings initiated under the Land Acquisition Act, 1894, where an award under the said section 11 has been made five years or more prior to the commencement of this Act but the physical possession of the land has not been taken or the compensation has not been paid the said proceedings shall be deemed to have lapsed and the appropriate Government, if it so chooses, shall initiate the proceedings of such land acquisition afresh in accordance with the provisions of this Act:

Provided that where an award has been made and

compensation in respect of a majority of land holdings has not been deposited in the account of the beneficiaries, then, all beneficiaries specified in the notification for acquisition under section 4 of the said Land Acquisition Act, shall be entitled to compensation in accordance with the provisions of this Act.”

5. A plain reading of the aforesaid provision clearly spells out that it is applicable in those cases where the award is announced five years or more prior to coming into force of 2013 Act. The award having been announced in the present case on 23.4.2010 does not satisfy the essential requirements of Section 24(2) of the 2013 Act.

6. Learned counsel for the petitioners has not been able to substantiate that the petitioner has any claim under Section 24(2) of the 2013 Act. Further, the petitioner had challenged the quantum of compensation by filing the reference petition before the Additional District Judge and then Regular First Appeal before this Court. Thereafter, the petitioner had approached the Supreme Court of India by filing Special Leave Petition. Thus, the present petition challenging the legality and validity of acquisition proceedings at her behest would not be competent. Consequently, finding no merit in the writ petition, the same is hereby dismissed.

(AJAY KUMAR MITTAL)
JUDGE

April 4, 2016
gbs

(RAJ RAHUL GARG)
JUDGE