

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 26480 of 2016
Date of Decision: 21.12.2016

Surinder and others

....Petitioners.

Versus

State of Haryana and others

...Respondents.

**CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MR. JUSTICE RAMENDRA JAIN.**

PRESENT: Mr. Saurabh Arora, 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 order dated 25.11.2016 (Annexure P-9), notifications dated 20.4.1990 (Annexure P-1) issued under Section 4 of the Land Acquisition Act, 1894 (in short “the Act”) and dated 18.4.1991 (Annexure P-2) under Section 6 of the Act. Further, a writ of mandamus has been sought directing the respondents to release the land of the petitioners measuring 7 kanal 18 marlas (3 kanal 19 marlas each) out of which the petitioners are owners of approximately 600 square yards (19.83 marlas approximately) situated within the revenue estate of village Kanhai, Tehsil and District Gurgaon, shall be deemed to have lapsed in terms 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 in possession of the land measuring 7 kanal 18 marlas (3 kanal 19 marlas each) out of which the petitioners are owners of approximately 600 square yards (19.83 marlas approximately)

situated within the revenue estate of village Kanhai, Tehsil and District Gurgaon. Respondent No.3 vide notification dated 20.4.1990 (Annexure P-1) issued under Section 4 of the Act followed by notification dated 18.4.1991 (Annexure P-2) under Section 6 of the Act, acquired land of the petitioners for the public purpose, namely, for the development and utilization of land in the development plan under the Haryana Urban Development Authority Act, 1977. The award was pronounced on 23.3.1993 (Annexure P-3). As per the photographs, Annexure P-4, the petitioners have got constructed their houses over the land in question. The site plan (Annexure P-5) for the said construction was prepared by the Draftsman, Gurgaon. As per jamabandi for the year 1989-90 (Annexure P-6), the name of father of petitioner No.1 finds mentioned in the name of owner pertaining to khasra No. 40//11/2. Brother of petitioner No.1 made a representation (Annexure P-7) in reply to notice dated 26.4.2000. As per the electricity bills (Annexure P-8 colly.), the electricity connection has been issued to the petitioners. The respondents have issued a notice dated 25.11.2016 (Annexure P-9) to the petitioners and other co-sharers to show cause as to why they be not evicted from the premises in question. The petitioners are still continuing to be in possession of the said land and the compensation has been received by 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 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 one month 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.

(AJAY KUMAR MITTAL)
JUDGE

December 21, 2016
gbs

(RAMENDRA JAIN)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No