

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 26494 of 2016

Date of Decision: 21.12.2016

Sat Pal Yadav 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. Amit Jain, 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 for declaring the notifications dated 12.6.1995 (Annexure P-1) issued under Section 4 of the Land Acquisition Act, 1894 (in short “the Act”), dated 11.6.1996 (Annexure P-2) under Section 6 of the Act and the award dated 9.6.1998 (Annexure P-3) as 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 in possession of the land situated in Hansi, District Hisar which was purchased in the auction held by the Custodian Department in the year 1967. Government of Haryana issued a notification dated 12.6.1995 (Annexure P-1) under Section 4 of the Act

followed by notification dated 11.6.1996 (Annexure P-2) under Section 6 of the Act for acquisition of land including the land of the petitioners for the development and utilization of land as residential, commercial, industrial and transportation. The award was passed on 9.6.1998 (Annexure P-3). Feeling aggrieved, the petitioners filed various writ petitions wherein counsel for respondent No.2 made a statement that the petitioners in CWP Nos. 5090, 5117 and 5270 of 1997 shall be offered auto shop sites in the newly developed Auto Market after development at the reserved price on 'no profit no loss' basis in order to mitigate the suffering of the petitioners and it would be open to the petitioners to carry on the business in the shops that would be allotted, the present business or to switch over to the auto business and that as far as possible the petitioners would not be disturbed till such time they are accommodated on the alternative site. The said statement was recorded by this Court vide order dated 2.4.1998 (Annexure P-4). On the basis of the statement, the writ petitions were disposed of by this Court vide order dated 30.4.1998 (Annexure P-5). In the year 2009, the respondent issued notices dated 5.2.2009 to the petitioners to deposit 10% of the reserve price so that the draw of lots can be undertaken under the oustees quota. The petitioners filed a representation to respondent No.3 and thereafter filed CWP No. 4805 of 2009. This Court vide order dated 26.3.2009 disposed of the said writ petition with a direction to the respondents to furnish detailed statement of accounts to the petitioners explaining the mode and method of price fixation. Since as per the details furnished by the respondents, the prevailing market rate was sought to be charged from the petitioners and the price was not fixed on the principle of 'no profit no loss' basis, the petitioners filed CWP No. 11880 of 2009. The

said writ petition was dismissed by this Court vide order dated 29.3.2012 (Annexure P-6). Thereafter, the petitioners deposited 10% of the amount demanded by the respondents but no further process of allotment/draw of lots was undertaken. The petitioners are still in physical possession of the land in question. No compensation has been paid to petitioners No.1 to 9 and rest of the petitioners have received a part of the compensation. 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 petitioners No.1 to 9 have not been paid the compensation whereas the rest of the petitioners have received a part of compensation. 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

December 21, 2016
gbs

(RAMENDRA JAIN)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No