

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 26513 of 2016

Date of Decision: 21.12.2016

Jagdish 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. Sandeep Sharma, 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 mandamus directing the respondents to release their house 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 khasra No. 20//13/2 (3-11) being Dholidar of the land situated within the revenue estate of village Adampur, District Gurgaon. Government of Haryana vide notification dated 3.3.2003 (Annexure P-1) issued under Section 4 of the Land Acquisition Act, 1894 (in short “the Act”) followed by notification dated 2.3.2004 (Annexure P-2) under Section 6 of the Act, acquired the land for the public purpose, i.e. for

the development and utilization of land for residential and commercial, Sectors 49-50, Gurgaon. The award was passed on 29.12.2005 (Annexure P-3). The petitioners have submitted their application for releasing their property from acquisition and the respondents have released the property of other landowners after passing of the award in the same village and from the same notifications. Thereafter, they moved a representation dated 9.4.2015 (Annexure P-10) to the Financial Secretary-cum-Principal Secretary to Government of Haryana, Town and Country Planning Department, Haryana, but to no effect. They 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 till date. 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 the petitioners have moved a representation dated 9.4.2015 (Annexure P-10) to the Financial Commissioner-cum-Principal Secretary to Government of Haryana, Town and Country Planning Department, Urban Estate HUDA, Haryana for releasing the land in question but no action has so far been taken thereon. They, however, prayed that 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