

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 26576 of 2016

Date of Decision: 21.12.2016

Haryana Waqf Board, Gurgaon

....Petitioner.

Versus

State of Haryana and others

...Respondents.

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

PRESENT: Mr. Ghulam Nabi Malik, 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 prayed for issuance of a writ in the nature of certiorari for quashing the notifications dated 30.1.1989 (Annexure P-2) issued under Section 4 of the Land Acquisition Act, 1894 (in short “the Act”) and dated 5.1.1990 (Annexure P-3) under Section 6 of the Act and the consequential proceedings arising therefrom including the award dated 22.1.1992 having lapsed under 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 was is owner of the land measuring 11 kanal 9 marlas situated at village Jharsa, Tehsil and District Gurugram as per the jamabandi for the year 2001-02 (Annexure P-1). Government of Haryana vide notification dated 30.1.1989 (Annexure P-2) issued under Section 4 of the Act followed by notification dated 5.1.1990 (Annexure P-3) under

Section 6 of the Act, acquired the land of the petitioner. The award was passed on 22.1.1992. The State Government had framed a policy dated 26.10.2007 modified on 24.1.2011, for releasing the building or institute owned and being used by the community from the acquisition proceedings. The petitioner moved a representation dated 21.5.2013 (Annexure P-4) to the Chief Minister, Haryana for de-notifying the waqfs lands. On the basis thereof, a meeting was held between the Government officials and the waqf authorities and the waqf authorities furnished an undertaking dated 17.6.2013 (Annexure P-5) that the land in question being mosque would only be used for offering prayers and not for any other purpose. This Court vide order dated 14.8.2013 (Annexure P-6) passed in CWP No. 2903 of 1990 filed by the other residents, quashed the acquisition proceedings. Thereafter, the petitioner moved another representation dated 11.1.2016 (Annexure P-7) to respondents No.1 and 2 and the Deputy Commissioner, Gurgaon for the release of the land in question. As per the photographs (Annexure P-8), the land in question being mosque is in possession of the petitioner and is being used to offer prayers by the local Muslim community. 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. 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 petitioner, 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 its 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