

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 26624 of 2016

Date of Decision: 22.12.2016

Parkash 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 land 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 the land measuring 22 kanal 10 marlas situated in village Tigra, District Gurgaon. Government of Haryana vide notification dated 24.8.2000 (Annexure P-1) issued under Section 4 of the Land Acquisition Act, 1894 (in short “the Act”) followed by notification dated 22.8.2001 (Annexure P-2) under Section 6 of the Act, acquired the land for the public purpose, i.e. for the residential, commercial and

institutional area, Sector 57, Gurgaon. The award was passed on 21.7.2003

(Annexure P-3). The petitioners have submitted their application for releasing their property from acquisition and as the respondents have already released vacant land measuring 2 kanal 10 marlas of Hazari after the passing of the award in the same village and from the same notification vide release order dated 21.2.2014 (Annexure P-5). They have filed CWP No. 3866 of 2015 and this Court vide order dated 23.4.2015 (Annexure P-6) disposed of the said writ petition. The Estate Officer-II, HUDA, Gurgaon vide public notice (Annexure P-7) requested the encroachers of the HUDA land to vacate the land within 24 hours otherwise the HUDA would remove the encroachment from 6.12.2016 forcefully. As per the photographs, Annexure P-8, the petitioners have constructed their residential houses, shops and cattle shed for their livelihood and the said land is adjacent to the abadi deh of village Tigra. The petitioners are still in physical possession of the land in dispute. The compensation has been paid to them and are ready to refund the same. 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 are ready to refund the same. 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 22, 2016
gbs

(RAMENDRA JAIN)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No