

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 26720 of 2016

Date of Decision: 22.12.2016

Gamdoor Singh 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. HPS Ishar, 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 area of the land acquired for construction of link channel 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. Respondent No.2 acquired a strip of land measuring 14 karmas vide notification dated 15.4.1981 (Annexure P-1) issued under Section 4 of the Land Acquisition Act, 1894 (in short “the Act”) followed by notification under Section 6 of the Act, for the construction of Link No.1 from RD 0 to 28500 tail out falling into Link No.III at RD 1974 left in village Telliwara, Lamba, Ghaswa and Babanpur, Tehsil Fatehabad and villages Karandi and

Mussa Khera of Tehsil Tohana, District Hisar (Project of 150 Nos. Augmentation Tubewells in Ratia area of District). The award was passed on 10.11.1981 (Annexure P-2). Since the said project was not feasible due to flood/low lying area and, therefore, the possession was left with the petitioners. However, mutation dated 21.2.2001 was entered in favour of respondent No.2 on 27.11.2001 after 20 years of notification. Some of the landowners sold and purchased the land amongst the co-sharers as the mutation in favour of the MITC was not entered and the compensation was not paid. The land remained with the co-sharers as well as co-villagers. Further, petitioners No.1, 4, 10, 12 and 13 filed a suit for permanent injunction restraining the defendants from interfering in their peaceful possession of the land in question prior to enactment of Act of 2013. The said suit was dismissed by the trial court vide judgment and decree dated 29.11.2013. The appeal filed against the said judgment was also dismissed by the lower appellate court vide judgment dated 3.10.2016 (Annexure P-3). However, a finding was recorded that the petitioners are in possession of the suit land. According to the petitioners, the acquisition proceedings have lapsed in view of Section 24(2) of the 2013 Act as they are still in physical possession of the land in dispute and the compensation has not been paid to them. Hence, the present writ petition.

3. Learned counsel for the petitioners submitted that the petitioners are in physical possession of the land in question and no 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 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