

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 26746 of 2016

Date of Decision: 22.12.2016

Haryana Waqf Board, Palwal

....Petitioner.

Versus

State of Haryana and others

...Respondents.

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

PRESENT: Mr. Mohammad Imran, Advocate for
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 has prayed for issuance of a writ in the nature of certiorari for quashing the notifications dated 10.12.1992 (Annexure P-3) issued under Section 4 of the Land Acquisition Act, 1894 (in short “the Act”) and dated 7.12.1993 (Annexure P-4) under Section 6 of the Act acquiring its land measuring 6 kanal 18 marlas situated at Kukria Mohalla, Palwal and all the consequential proceedings arising therefrom including the award dated 6.12.1995 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 land measuring 6 kanal 18 marlas bearing khasra No. 357 situated at Dukria Mohalla, Palwal is a graveyard as per jamabandi for the

year 1974-75 (Annexure P-1). The said land was declared as waqf property vide notification dated 11.4.1987 (Annexure P-2) issued by the Union of India under Sections 4 and 5 of the Waqf Act, 1995. The respondents vide notification dated 10.12.1992 (Annexure P-3) issued under Section 4 of the Act followed by notification dated 7.12.1993 (Annexure P-4) under Section 6 of the Act, acquired the land in question. The award was passed on 6.12.1995 (Annexure P-5). The petitioner moved a representation dated 18.2.2016 (Annexure P-6) to respondent No.7 to know the status of the waqf property, but to no effect. The petitioner is still in physical possession of the land in question. 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 22, 2016
gbs

(RAMENDRA JAIN)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No