

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 26812 of 2016

Date of Decision: 22.12.2016

Mohinder Kumar Gupta

....Petitioner.

Versus

State of Haryana and others

...Respondents.

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

PRESENT: Mr. Neeraj Sharma, Advocate for
Mr. Harkesh Manuja, Advocate for the petitioner.

AJAY KUMAR MITTAL, J.

1. In this 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 15.1.1976 (Annexure P-1) issued under Section 4 of the Land Acquisition Act, 1894 (in short “the Act”) and dated 15.6.1976 (Annexure P-2) under Section 6 of the Act qua the land measuring 4 kanal 17 marlas situated within the revenue estate of village Tosham, District Bhiwani, 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 petitioner was owner in possession of the land measuring 7 kanal 7 marlas situated within the revenue estate of village Tosham, District Bhiwani vide registered sale deed dated 21.5.1966. Out of the said land, he had sold the land measuring 2 kanal 10 marlas. Government of Haryana

vide notification dated 15.1.1976 (Annexure P-1) issued under Section 4 of the Act followed by notification dated 15.6.1976 (Annexure P-2) under Section 6 of the Act, acquired the land including the land of the petitioner for the construction of PWD Store. The award was passed on 9.3.1979 (Annexure P-3). The petitioner moved an application dated 15.11.2016 (Annexure P-4) under the Right to Information Act, 2005 to verify the status of the amount of compensation vide post receipt dated 16.11.2016 (Annexure P-5), but to no effect. As per the photographs (Annexure P-6), the acquired land is still lying vacant as the Government has neither constructed any store for PWD Department nor the land has been utilized for any other purpose. According to the petitioner, the acquisition proceedings have lapsed in view of Section 24(2) of the 2013 Act as no compensation has been paid to him and only paper possession has been taken. Hence, the present writ petition.

3. Learned counsel for the petitioner submitted that the land is still lying unutilized/vacant and no compensation has been paid to the petitioner. 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 him within a period of four months from the date of receipt of representation. The petitioner shall be entitled to lead any evidence to substantiate his 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