

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 26948 of 2016

Date of Decision: 23.12.2016

Parminder Kaur

....Petitioner.

Versus

Union Territory, Chandigarh and others

...Respondents.

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

PRESENT: Mr. Deepankur Sharma, 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 the directions to respondents No.1 to 3 not to take possession of the land in question as the notifications dated 31.1.1992 (Annexure P-2) issued under Section 4 of the Land Acquisition Act, 1894 (in short “the Act”), dated 29.1.1993 (Annexure P-3) under Section 6 of the Act and the award dated 5.3.2003 (Annexure P-4) have lapsed 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 purchased the plot measuring 4 marlas from Ghanpal Singh, Gopal Singh, Ajaib Singh and Sitto vide sale deed dated 9.4.1990 (Annexure P-1). The notification dated 1.6.1990 was issued under

Section 4 of the Act for acquisition of the regularized houses in Shanti

Nagar and other localities as well as those of the petitioner. Since the said notification had lapsed, a fresh notification dated 31.1.1992 (Annexure P-2) under Section 4 of the Act followed by notification dated 21.1.1993 (Annexure P-3) under Section 6 of the Act was issued for acquisition of houses including the house of the petitioner. The award was passed on 5.3.2003 (Annexure P-4). Feeling aggrieved by the said acquisition, some of the residents of Janta Colony filed CWP Nos. 3233 of 1993, 17931 of 2009 and 6897 of 2010 and this Court vide order dated 12.1.2011 (Annexure P-5) disposed of the said writ petition. The petitioner is still in physical possession of the land in question and no compensation has been paid to her. 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 and no compensation has been paid to her. 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 her 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 23, 2016
gbs

(RAMENDRA JAIN)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No