

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 27043 of 2016

Date of Decision: 23.12.2016

Joginder Singh

....Petitioner.

Versus

State of Haryana and others

...Respondents.

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

PRESENT: Mr. K.K. Gupta, Advocate for the petitioner.

AJAY KUMAR MITTAL, J.

1. By way of instant 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 27.3.2001 (Annexure P-1) issued under Section 4 of the Land Acquisition Act, 1894 (in short “the Act”), dated 26.3.2002 (Annexure P-2) under Section 6 of the Act and the award dated 22.3.2004 (Annexure P-3) having 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 was owner in possession of the land measuring one bigha (1008.33 square yards) situated in village Nada, Tehsil and District Panchkula and had constructed a residential house having 'A' Class

construction. Government of Haryana vide notification dated 27.3.2001

(Annexure P-1) issued under Section 4 of the Act followed by notification dated 26.3.2002 (Annexure P-2) under Section 6 of the Act, acquired the land including the land of the petitioner for the development and utilization of land for residential and commercial, Sector 31, Panchkula. The petitioner filed objections under Section 5-A of the Act. The award was passed on 22.3.2004 (Annexure P-3). The petitioner got electric connection on the said house by depositing the security vide receipt dated 28.11.1995 (Annexure P-4). The voter card dated 15.12.1995 (Annexure P-5), ration card dated 25.6.1999 (Annexure P-6) and the telephone bill (Annexure P-7) of the landline connection have been issued at the above said address of the house of the petitioner. The certificates (Annexure P-8 Colly) of payment of housing loan raised for the construction of the house on the land in question have been issued by the State Bank of Patiala at the said address. As per the electricity bill (Annexure P-9) and the photographs (Annexure P-10), the petitioner had raised construction on the land in question. The petitioner and others challenged the acquisition proceedings by filing CWP No. 14468 of 2002. During the pendency of the writ petition, the respondents made a statement and released the land/houses of the petitioners therein except the petitioner herein. This Court vide order dated 6.11.2007 (Annexure P-11) dismissed the said writ petition. The respondents framed a policy dated 26.10.2007 (Annexure P-12) to release the part of the land where the structure was existing prior to issuance of notification under Section 4 of the Act. Accordingly, the petitioner moved a representation dated 18.2.2008 (Annexure P-13) to respondent No.2 for the release of his residential house, but to no effect. The respondents framed another policy dated 24.1.2011 (Annexure P-14) on the similar lines and the

petitioner moved a representation, but in vain. Vide policy dated 28.8.2015 (Annexure P-15), the respondents directed all the concerned to implement the provisions of the 2013 Act. Thereafter, the petitioner moved a representation dated 26.7.2016 (Annexure P-16) to the respondents for release of the land in question under Section 24(2) of the Act, but no action has so far been taken thereon. According to the petitioner, the acquisition proceedings have lapsed in view of Section 24(2) of the 2013 Act as he is still in physical possession of the land in question and no compensation has been paid to him. 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 received by him. 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 the petitioner has sent a representation dated 26.7.2016 (Annexure P-16) to the respondents for release of the land in question under Section 24(2) of the Act, but no action has so far been taken thereon. He, however, prayed that 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 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 23, 2016
gbs

(RAMENDRA JAIN)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No