

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 27240 of 2016

Date of Decision: 23.12.2016

Tejpal and another

....Petitioners.

Versus

The State of Haryana and another

...Respondents.

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

PRESENT: Mr. Hardeep Singh, Advocate for
Mr. Vikram Singh, Advocate for the petitioners.

AJAY KUMAR MITTAL, J.

1. Through the 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 certiorari for quashing the order dated 15.4.2015 (Annexure P-8) and the notifications dated 24.8.2000 (Annexure P-1) issued under Section 4 of the Land Acquisition Act, 1894 (in short “the Act”) and dated 22.8.2001 (Annexure P-2) under Section 6 of the Act vide which their land has been acquired. Further, a writ of mandamus has been sought directing the respondents to release the land of the petitioners 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”) as they are still in physical possession thereof and are ready to deposit the amount of compensation received by them along with

interest.

2. Government of Haryana vide notification dated 24.8.2000 (Annexure P-1) issued under Section 4 of the Act followed by notification dated 22.8.2001 (Annexure P-2) under Section 6 of the Act, acquired the land including the land of the petitioners for the expansion of Industrial Sector 57, Gurgaon. The petitioners filed objections under Section 5-A of the Act. As per the revenue record, i.e. khasra Girdawari, site plan and photographs (Annexures P-3 to P-5, respectively), the construction has been made prior to the issuance of notification under Section 4 of the Act. The award was passed. The petitioners moved a representation dated 10.6.2014 (Annexure P-6) to the respondents for release of the land in view of Section 24(2) of the 2013 Act, but to no effect. Thereafter, the petitioners filed CWP No. 20272 of 2014 which was disposed of by this Court vide order dated 4.11.2014 (Annexure P-7). In pursuance thereto, the petitioners appeared before the respondents and submitted the copies of khasra, girdawari, jamabandi, photographs and the site plan to prove that they are in possession of the property in dispute and have constructed the houses thereon and prayed for release of the land. However, the Additional Chief Secretary, Government of Haryana vide order dated 15.4.2015 (Annexure P-8) rejected the claim of the petitioners. The petitioners filed another CWP No. 8046 of 2015 and the said writ petition was dismissed by this Court vide order dated 11.5.2015 on the ground that the petitioners had received the compensation and are unauthorized occupant of the land. In view of the judgment dated 9.9.2016 (Annexure P-9) passed by the Supreme Court, this Court had allowed the writ petitions where the petitioners had received the compensation and were ready to deposit the same along with interest.

Thereafter, the petitioners moved a representation dated 19.10.2015 (Annexure P-10) to the respondents for the release of the land in dispute, but no response has been received till date. 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 question and are ready to deposit the amount of compensation received by them along with interest. Hence, the present writ petition.

3. Learned counsel for the petitioners submitted that the petitioners are in physical possession of the land in dispute. They are ready to deposit the amount of compensation received by them along with interest. It was further submitted that they have moved a representation dated 10.6.2014 (Annexure P-6) to the respondents for the release of their land from acquisition in view of Section 24(2) of the 2013 Act, but no response has been received till date. They, however, prayed that 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 and 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 23, 2016
gbs

(RAMENDRA JAIN)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No