

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 5211 of 2016

Date of Decision: 18.3.2016

Satbir and others

....Petitioners.

Versus

State of Haryana and others

...Respondents.

1. Whether the Reporters of the local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

**CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MRS. JUSTICE RAJ RAHUL GARG.**

PRESENT: Mr. Ram Bilas Gupta, Advocate for the petitioners.

AJAY KUMAR MITTAL, J.

1. By way of 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 notifications dated 2.8.1989 (Annexure P-4) issued under Section 4 of the Land Acquisition Act, 1894 (in short "the Act"), dated 1.8.1990 (Annexure P-5) under Section 6 of the Act, the award dated 7.10.1991 (Annexure P-8) and all subsequent proceedings arising therefrom. Further, a writ of mandamus has been sought to declare the acquisition 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 petitioners are owners as a pattedar Dwami/perpetual lessee before the issuance of notification under Section 4 of the Act and still in possession of houses/land measuring more 1300 square yards situated within the revenue estate of village Mewla, Mehrazpur, District Faridabad. The father of the petitioners had died in the year 2000 and thereafter, the petitioners had inherited their rights being the legal heirs of the deceased. The ownership and possession of the petitioners is shown in the jamabandi for the year 2003-04 (Annexure P-1) and khasra girdawari 2009-2014 (Annexure P-2). The father of the petitioners had raised construction in the year 1970 and also paid house tax etc. The petitioners are still residing in the house/land as is discernible from the photographs, Annexure P-3. Government of Haryana vide notification dated 2.8.1989 (Annexure P-4) issued under Section 4 of the Act followed by notification dated 1.8.1990 (Annexure P-5) under Section 6 of the Act, acquired the land measuring 194.97 acres situated in the revenue estate of village Mewla Mehrazpur, District Faridabad for the development and utilization of land for residential and commercial, Sector 45, Faridabad. The father of the petitioners and other landowners filed objections under Section 5-A of the Act on 28.8.1989. However, the land measuring 10.31 acres was left out at the time of declaration under Section 6 of the Act. The father of the petitioners and other co-sharers filed CWP No. 2123 of 1991 challenging the said notifications which was disposed of by this Court vide order dated 29.8.2011 (Annexure P-6) in view of the order dated 3.8.2010 (Annexure P-7) passed in CWP No. 1593 of 1991. The award was passed on 7.10.1991 (Annexure P-8). The petitioners moved a representation dated 15.2.2016 (Annexure P-9)

for release of the houses/land in view of Section 24(2) of the 2013 Act, but no action was taken thereon. The petitioners are still in physical possession of the land in dispute and no compensation has been paid to them. According to the petitioners, 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 petitioners submitted that the petitioners are in physical possession of the land in dispute and the compensation has not been paid to them. 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 petitioners have moved a representation dated 15.2.2016 (Annexure P-9) claiming the relief as claimed in respect of lapse of notifications, but to no effect. The petitioners prayed that the liberty be granted to them 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 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

March 18, 2016
gbs

(RAJ RAHUL GARG)
JUDGE