

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 5250 of 2016

Date of Decision: 18.3.2016

Rakesh Kumar and others

....Petitioners.

Versus

State of Haryana and another

...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. Vikram Singh, Advocate for the petitioners.

AJAY KUMAR MITTAL, J.

1. The petitioners, by way of instant petition filed under Articles 226/227 of the Constitution of India, have prayed for issuance of a writ in the nature of certiorari for quashing the notifications dated 8.3.1989 (Annexure P-2) issued under Section 4 of the Land Acquisition Act, 1894 (in short “the Act”) and dated 7.3.1990 (Annexure P-3) under Section 6 of the Act. Further, a writ of mandamus has been sought directing the respondents to release their land situated within the revenue estate of village Kadipur, Tehsil and District Gurgaon under 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 no compensation has been paid to them.

2. As per the averments made in the petition, the petitioners were owners in possession of the land situated within the revenue estate of village Kadipur, Tehsil and District Gurgaon as per the jamabandi for the year 2002-03 (Annexure P-1). Their land was acquired vide notification dated 8.3.1989 (Annexure P-2) issued under Section 4 of the Act followed by notification dated 7.3.1990 (Annexure P-3) under Section 6 of the Act. The award was passed on 18.3.1991. As per the information received vide letter dated 22.7.2015 (Annexure P-4) under the Right to Information Act, 2005, the petitioners are still in physical possession of the land in question and no compensation has been paid to them. They have submitted a representation dated 18.11.2015 (Annexure P-5) to respondent No.1 for release of their land from acquisition in view of Section 24(2) of the 2013 Act but no response has been received till date. 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 no compensation has been paid to them. It was further submitted that they have moved a representation dated 18.11.2015 (Annexure P-5) to respondent No.1 for the release of their land from acquisition as per the provisions of the 2013 Act, but no response has been received till date. He, 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

March 18, 2016
gbs

(RAJ RAHUL GARG)
JUDGE