

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 5339 of 2016

Date of Decision: 21.3.2016

M/s Parisha Promoters Private Limited, New Delhi

....Petitioner.

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. Shailendra Jain, Senior Advocate with
Mr. Sanjeev Gupta, Advocate for the petitioner.

AJAY KUMAR MITTAL, J.

1. In this writ petition filed under Articles 226/227 of the Constitution of India, the petitioner has prayed for issuance of a writ in the nature of Mandamus directing the respondents to release its land comprised in khewat No. 381, khata No. 337 (1-8), 326(1-2) and 327(1-6) situated within the revenue estate of village Islampur, Tehsil and District Gurgaon which had been acquired vide notification dated 27.11.2003 (Annexure P-9) issued under Section 4 of the Land Acquisition Act, 1894 (in short "the Act") followed by notification dated 24.11.2004 (Annexure P-10) under Section 6 of the Act.

2. Originally, the petitioner was constituted as a Private Limited

Company under the name and style of M/s Clement Overseas Pvt. Ltd. on 10.9.1996 which was changed to M/s Parisha Promoters Pvt. Ltd. and a fresh Certificate of Corporation dated 12.5.2004 (Annexure P-1) was issued. The petitioner was in possession of the land measuring 1 bigha comprised in khewat No. 381, khata No. 337 (1B-8B), 326 (1B-2B) and 327 (1B-6B) situated within the revenue estate of village Islampur, Tehsil and District Gurgaon. Earlier the land in question was in possession of Shri Bhima and Shri Ram Singh to the extent of half share each who entered into a collaboration agreement dated 25.3.2004 with M/s Clement Overseas Pvt. Ltd. The said owners vide an agreement to sell dated 25.3.2004 (Annexure P-2) agreed to sell, transfer and assign all their rights, title and interest in the said land and in the developed area which would fall to their share on completion of development and agreed to give up/release/relinquish all their rights in the said land in favour of the petitioner for a consideration of ₹ 65,85,375/-. Said S/Shri Ram Singh and Bhima executed a General Power of Attorney dated 25.3.2004 (Annexure P-3) in favour of Shri V.K. Gandhi. Shri Bhima had expired on 12.11.2013 and qua the extent of his half share in the land in question, he had already executed a Will dated 25.3.2004 (Annexure P-4) which was duly registered with the Sub Registrar, Gurgaon on 22.8.2014. Similarly, qua the land measuring 3 bigha 8 biswas situated at village Islampur, Tehsil and District Gurgaon, the original owner, namely, Shri Tej Ram entered into a collaboration agreement dated 25.6.2004 with the petitioner. The said owner vide an agreement to sell dated 25.6.2004 (Annexure P-5) agreed to sell, transfer and assign all their rights, title and interest in the said land and in the developed area which would fall to their share on completion of development and agreed

to give up/release/relinquish all their rights in the said land in favour of the petitioner for a consideration of ₹ 65,25,000/-. The vacant possession of the said land was handed over to the petitioner vide receipt dated 25.6.2004 (Annexure P-6). Shri Tej Ram had already executed a Will dated 2.7.2004 (Annexure P-7) during his lifetime qua the said land. Vide the said Will, after the death of Shri Tej Ram, the petitioner had become legal owner of the said land. The said Will was duly registered with the Sub-Registrar, Gurgaon on 2.7.2004. After taking the possession of the said lands, the petitioner raised a boundary wall on its parameters with an iron gate for its egress and ingress as shown in the photographs (Annexure P-8 Colly). State of Haryana vide notification dated 27.11.2003 (Annexure P-9) issued under Section 4 of the Act followed by notification dated 24.11.2004 (Annexure P-10) under Section 6 of the Act acquired the land of the petitioner along with the land of other landowners. The award was passed on 22.11.2006 (Annexure P-11). The petitioner along with others challenged the said acquisition proceedings before this Court by way of CWP No. 18163 of 2006 and this Court vide order dated 21.10.2013 (Annexure P-12) disposed of the said petition with liberty to the petitioner to move an application for the grant of license on the prescribed format and the respondents were directed to consider the same in accordance with law and after affording an opportunity of hearing to the petitioner. In pursuance thereto, the petitioner applied to respondents No.2 and 3 vide letters dated 7.1.2014 and 26.2.2014 (Annexure P-13 Colly) for release of their land so that they could apply for grant of licence to develop a commercial complex thereon. Respondent No.2 vide letter dated 8.3.2014 (Annexure P-14) directed the petitioner to appear in person on

18.3.2014. On the said date, the representative of the petitioner appeared before respondent No.2. A letter dated 26.3.2014 (Annexure P-15) was sent by the petitioner to respondent No.2 for de-notifying the said land from the acquisition and for granting change of land use for using the same for residential purposes. The lands forming the subject matter of the said notifications came to fall in Sector 33, Gurgaon as per the layout plan (Annexure P-16). However, there was no reference of such Sector 33, Gurgaon at the time of issuance of the said notifications as the public purpose mentioned therein was for the development and utilization of land for residential, commercial and institutional Sector 48, Gurgaon. The District Town Planner, Gurgaon, vide letter dated 23.6.2014 (Annexure P-17) informed respondent No.2 that the land of the petitioner had been identified to be required for settling of oustees claims, as per the layout plan of Sector 33, Gurgaon which was issued by respondent No.4 vide letter dated 8.11.2010 and the same could not be released. Vide another letter dated 20.2.2015 (Annexure P-18), the District Town Planner, Gurgaon informed respondent No.4 that the land of the petitioner was affecting the site reserved for settlement of oustees claims, as per the layout plan of Sector 33, Gurgaon. The acquisition process was challenged by some other landowners by filing CWP No. 12470 of 2007 and this Court vide order dated 21.10.2013 disposed of the said petition directing the respondents therein to re-determine the claim of the petitioners for release of their land after granting them an opportunity of personal hearing. In pursuance thereto, respondent No.2 vide order dated 11.8.2014 (Annexure P-19) recommended release of the land from acquisition which subsequently came to fall in Sector 33, Gurgaon on the ground that in the said notifications, Annexures P-9 and

P-10, Sector 33, Gurgaon had not been mentioned. The land of the petitioner was also liable to be released as the land of the similarly situated landowners had been released. Accordingly, the petitioner sent a demand notice dated 22.2.2014 (Annexure P-21) to the respondents for release of the land in question, but no response has been received till date. Hence, the present writ petition.

3. Learned counsel for the petitioner submitted that for the relief claimed in the writ petition, the petitioner has sent a demand notice dated 22.2.2014 (Annexure P-21) to the respondents, but no action has so far been taken thereon.

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 directing respondent No.1 to take a decision on the demand notice dated 22.2.2014 (Annexure P-21), in accordance with law by passing a speaking order and after affording an opportunity of hearing to the petitioner within a period of three months from the date of receipt of certified copy of the order.

(AJAY KUMAR MITTAL)
JUDGE

March 21, 2016
gbs

(RAJ RAHUL GARG)
JUDGE