

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 571 of 2016

Date of Decision: 24.5.2016

Pardeep

....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. Rohin Sharma, Advocate for
Mr. Vikram Singh, Advocate for the petitioner.

Mr. Saurabh Mago, AAG, Haryana.

AJAY KUMAR MITTAL, J.

1. In this 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 order dated 28.12.2015 (Annexure P-9), notifications dated 5.7.1982 (Annexure P-4) issued under Section 4 of the Land Acquisition Act, 1894 (in short "the Act") and dated 27.3.1985 (Annexure P-5) under Section 6 of the Act. Further, a writ of mandamus has been sought directing the respondents to release the land of the petitioner situated within the revenue estate of village Karnal 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 he is still in physical possession and no compensation has been received by him.

2. The petitioner is owner in possession of the land measuring 8 marlas (about 120 square meter). The petitioner is in physical possession of the land in question and is also paying tax as is discernible from the copies of field book (Annexure P-1), receipt of house tax (Annexure P-2) and the photographs (Annexure P-3). Government of Haryana vide notification dated 5.7.1982 (Annexure P-4) issued under Section 4 of the Act followed by notification dated 27.3.1985 (Annexure P-5) under Section 6 of the Act, acquired the land including the land of the petitioner for the development of Sector 7, Karnal. The petitioner filed objections under Section 5-A of the Act. The land of the petitioner has been acquired whereas his house having 'A' class construction has been released. The petitioner filed CWP No. 9263 of 2013 challenging the said acquisition proceedings which was disposed of by this Court directing the respondents to consider his claim. The award was passed on 5.8.1985 (Annexure P-5). The petitioner moved a representation dated 10.10.2014 (Annexure P-6) to respondent No.1 for release of the land in view of Section 24(2) of the 2013 Act, but to no effect. The father of the petitioner filed CWP No. 23750 of 2014 for release of the land under Section 24(2) of the 2013 Act and this Court vide order dated 20.11.2014 (Annexure P-8) disposed of the said writ petition with a direction to the respondents to decide the representation dated 10.10.2014 (Annexure P-6) filed by the petitioner. In pursuance thereto, the authorities have rejected the claim of the petitioner vide order dated 28.12.2015 (Annexure P-9). The petitioner is still in physical

possession of the land in question. No compensation has been paid to him. According to the petitioner, 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 petitioner submitted that the petitioner is still in physical possession of the land in question and compensation has not been paid to 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 10.10.2014 (Annexure P-6) to respondent No.1 for release of the land in question in view of Section 24(2) of the 2013 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 parties, 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

May 24, 2016
gbs

(RAJ RAHUL GARG)
JUDGE