

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 6239 of 2016

Date of Decision: 2.6.2016

Desh Raj 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. Sanjay Verma, Advocate for the petitioners.

AJAY KUMAR MITTAL, J.

1. In this 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 25.11.2005 (Annexure P-1) issued under Section 4 of the Land Acquisition Act, 1894 (in short "the Act"), dated 24.11.2006 (Annexure P-4) under Section 6 of the Act and the subsequent proceedings arising therefrom 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 in possession of constructed residential property as detailed in para 2 of the writ petition, situated

within the revenue estate of village Khoh/Kasan, Tehsil and District Gurgaon. Government of Haryana issued a notification dated 25.11.2005 (Annexure P-1) under Section 4 of the Act followed by notification dated 24.11.2006 (Annexure P-4) under Section 6 of the Act for acquisition of land including the land of the petitioners for the purpose of setting up the Industrial Model Township, Manesar. The petitioners filed objections on 23.12.2005 (Annexure P-2). The petitioners had constructed their residential houses by raising 'A' class construction prior to the issuance of notification under Section 4 of the Act and had all basic amenities like water, electricity and sewerage etc. Notice under Section 9 of the Act was issued to the petitioners. The petitioners challenged the said acquisition proceedings by filing CWP No. 2840 of 2007 and this Court vide order dated 4.2.2008 (Annexure P-5) dismissed the said writ petition in terms of order dated 14.12.2007 (Annexure P-6) passed in CWP Nos. 1793, 1813 and 8015 of 2007. The petitioners filed RA No. 179 of 2008 which was dismissed as withdrawn by this Court vide order dated 10.9.2010 (Annexure P-7). Against the orders, Annexures P-5 and P-7, the petitioners filed SLP(C) Nos. 20250-20251 of 2011 and the Supreme Court vide order dated 18.11.2015 (Annexure P-8) disposed of the said Special Leave Petitions with liberty to the petitioners and other similarly situated persons to make appropriate applications under Section 24(2) of the 2013 before the appropriate forum including the High Court within four weeks. The petitioners were granted liberty to produce the counter affidavit filed by the respondents before the Supreme Court in SLP(C) Nos. 20234-20235 of 2011 while filing the applications. The petitioners are still in physical possession of the land in question. 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 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 since no demand notice claiming the relief as claimed in respect of lapse of notifications has been filed with the respondents, 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, 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

June 2, 2016
gbs

(RAJ RAHUL GARG)
JUDGE