

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 7367 of 2016

Date of Decision: 25.4.2016

Nek Mohmmmed

....Petitioner.

Versus

The 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 MR. JUSTICE DARSHAN SINGH.**

PRESENT: Mr. Jagbir Malik, Advocate for the petitioner.

AJAY KUMAR MITTAL, J.

1. By way of instant 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 acquisition qua his land measuring 2 bigha issued vide notifications dated 26.9.2007 (Annexure P-4) under Section 4 of the Land Acquisition Act, 1894 (in short "the Act") and dated 25.9.2008 (Annexure P-6) under Section 6 of the Act, award of which has been passed on 24.9.2010 (Annexure P-7). Further, a writ of mandamus has been sought directing the respondents to release the residential house of the petitioner 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 petitioner is owner in possession of a residential house constructed in the year 2006 on the land measuring 2 bigha situated within the revenue estate of village Islam Nagar, Tehsil Kalka, District Panchkula as per girdawari (Annexure P-1), jamabandi (Annexure P-2) and the photographs (Annexure P-3). Government of Haryana issued a notification dated 26.9.2007 (Annexure P-4) under Section 4 of the Act followed by notification dated 25.9.2008 (Annexure P-6) for acquisition of the land including the land of the petitioner for the development and utilization of land for residential area for Sector 2, Part 3, 4 and 5, Pinjore. The petitioner filed objections under Section 5-A of the Act on 19.10.2007 (Annexure P-5). The award dated 24.9.2010 (Annexure P-7) was passed. After more than two years of the passing of the award, the respondents vide order dated 31.12.2012 (Annexure P-8) have released a vacant plot of 516 square yards. The petitioner is still in physical possession of the house 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. We have heard learned counsel for the petitioner.

4. It is the admitted position that the land of the petitioner was acquired in the year 2008 for a public purpose, namely, for the development and utilization of land for residential area for Sector 2, Part 3, 4 and 5, Pinjore. The award was passed on 24.9.2010 (Annexure P-7). The claim of the petitioner under Section 24(2) of the 2013 Act cannot be accepted as the award was announced on 24.9.2010. It would be expedient to refer to Section 24(2) of the 2013 Act, which is in the following terms:-

“24. (2) Notwithstanding anything contained in sub-

section (1), in case of land acquisition proceedings initiated under the Land Acquisition Act, 1894, where an award under the said section 11 has been made five years or more prior to the commencement of this Act but the physical possession of the land has not been taken or the compensation has not been paid the said proceedings shall be deemed to have lapsed and the appropriate Government, if it so chooses, shall initiate the proceedings of such land acquisition afresh in accordance with the provisions of this Act: Provided that where an award has been made and compensation in respect of a majority of land holdings has not been deposited in the account of the beneficiaries, then, all beneficiaries specified in the notification for acquisition under section 4 of the said Land Acquisition Act, shall be entitled to compensation in accordance with the provisions of this Act.”

5. A plain reading of the aforesaid provision clearly spells out that it is applicable in those cases where the award is announced five years or more prior to coming into force of 2013 Act. The award having been announced in the present case on 24.9.2010 does not satisfy the essential requirements of Section 24(2) of the 2013 Act.

6. Learned counsel for the petitioner has not been able to substantiate that the petitioner has any claim under Section 24(2) of the 2013 Act. Thus, the present petition challenging the legality and validity of acquisition proceedings at his behest would not be competent.

Consequently, finding no merit in the writ petition, the same is hereby dismissed.

(AJAY KUMAR MITTAL)
JUDGE

April 25, 2016
gbs

(DARSHAN SINGH)
JUDGE