

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 7680 of 2016

Date of Decision: 27.4.2016

Naraini Devi

....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 MRS. JUSTICE RAJ RAHUL GARG.**

PRESENT: Mr. Shilak Ram Hooda, 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 notifications dated 12.5.1995 (Annexure P-5) issued under Section 4 of the Land Acquisition Act, 1894 (in short "the Act"), dated 10.5.1996 (Annexure P-8) under Section 6 of the Act and the award dated 24.4.1998 (Annexure P-12) being violative of the policies dated 30.9.2007, 26.10.2007 and dated 24.1.2011 (Annexure P-19) and having lapsed 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 of land measuring 6800 square yards out of which an area of 1850 square yards is under construction of Crockery Factory situated within the revenue estate of Bahadurgarh,

District Jhajjar. The factory is existing at the site since the year 1972 and is registered with the Department of Industries, Haryana vide certificate dated 16.3.1972 (Annexure P-1). The Chief Inspector of Factories, Haryana, Chandigarh issued a registration certificate dated 31.8.1991 (Annexure P-2) clarifying that the premises fall within the definition of Factory as per Section 2(m)(i) of the Factories Act, 1948. The DT licence fee of ₹ 200/- was deposited in regard to the factory to the Municipal Committee, Bahadurgarh vide receipt dated 20.9.1994 (Annexure P-3). The Haryana State Electricity Board issued electricity bill (Annexure P-4) of the amount of ₹ 9892/- with due date for payment as 22.3.1995. Government of Haryana vide notification dated 12.5.1995 (Annexure P-5) issued under Section 4 of the Act followed by notification dated 10.5.1996 (Annexure P-8) under Section 6 of the Act, acquired the entire land measuring 6800 square yards for the development and utilization of land as residential and commercial for Sectors 9 and 9-A, Urban Estate, Bahadurgarh. The petitioner filed objections dated 8.6.1995 (Annexure P-6) under Section 5-A of the Act. Respondent No.4 after considering the objections, Annexure P-6, recommended for release of the acquired land of factory vide report, Annexure P-7. The Director, Urban Estate Department, Chandigarh vide order dated 4.4.1997 (Annexure P-9) released the land of other factory, namely, M/s Jain Ceramic Industries, Bahadurgarh which was also acquired for construction and utilization of Sectors 9 and 9-A, Urban Estate, Bahadurgarh. Further, vide order dated 6.5.1997 (Annexure P-10), the vacant land of Mrs. Mohni Singh had also been released from the acquisition. The District Town Planner, Rohtak wrote a letter dated 18.3.1997 (Annexure P-11) to the Chief Town Planner, Hisar Division,

Hisar for release of the land of the factory of the petitioner from the acquisition. The award was passed on 24.4.1998 (Annexure P-12). The petitioner challenged the acquisition proceedings before this Court in CWP No. 18478 of 1998 which was disposed of vide order dated 3.12.1998 directing the respondents to decide the representation of the petitioner. The Supreme Court vide order dated 17.8.2001 (Annexure P-13) passed in Civil Appeal No.5516 of 2001 arising out of SLP No. 585 of 1999 allowed the appeal and directed to consider the objection petitions filed by the appellants therein for exclusion of their properties from the acquisition. The petitioner filed CWP No. 632 of 2002 for release of her land and this Court vide order dated 7.2.2002 (Annexure P-14) directed the respondents to consider the representation, if any, made by the petitioner in the light of the observations made by the Apex Court in the order, Annexure P-13. In pursuance thereto, the petitioner made a representation dated 26.3.2002 (Annexure P-15) for release of the factory from the acquisition. When no action was taken on the representation of the petitioner, the petitioner filed CM No. 19178 of 2009 in CWP No. 632 of 2002 for a direction to the respondents to decide the representation in compliance with the order dated 7.2.2002 (Annexure P-14). This Court vide order dated 18.2.2010 (Annexure P-16) directed respondent No.1 to decide the representation of the petitioner within a period of two months. In pursuance thereto, respondent No.1 vide order dated 14.5.2010 (Annexure P-17) rejected the representation of the petitioner. This Court vide order dated 21.6.2010 (Annexure P-18) allowed a bunch of writ petitions by observing that the constructions raised by the petitioners therein of their residential houses and factories after obtaining permission from the

Municipal Committee would not be illegal if the constructions had been raised before issuance of notification under Section 4 of the Act. As per the policies dated 30.9.2007, 26.10.2007 and 24.1.2011 (Annexure P-19 Colly), the constructions of any type of the houses and factories or commercial establishments existing prior to issuance of notification under Section 4 of the Act would be exempted from acquisition. The petitioner filed CWP No. 16687 of 2010 challenging the order dated 14.5.2010 (Annexure P-17) and this Court vide order dated 16.9.2010 (Annexure P-20) dismissed the said writ petition. The review against the said order was also dismissed by this Court vide order dated 2.11.2012. In compliance with the order dated 28.1.2014 passed by this Court in CWP No. 760 of 2014, the respondents vide order dated 30.9.2014 (Annexure P-21) while deciding the representation of the petitioner therein, released the lands under built-up structures and falling in the green belt as per layout plan of Sectors 21 and 22, Urban Estate, Sirsa. The petitioner moved a representation dated 15.9.2015 (Annexure P-22) before respondents No.2 and 4 for release of her land under factory in view of Section 24(2) of the 2013 Act, but to no effect. According to the petitioner, the acquisition proceedings have lapsed in view of Section 24 (2) of the 2013 Act as neither compensation has been paid nor the possession of the acquired land has been taken. 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 her. 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 although a representation dated 15.9.2015 (Annexure P-15) was filed, but 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 petitioner, 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 her 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

April 27, 2016
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(RAJ RAHUL GARG)
JUDGE