

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 7830 of 2016

Date of Decision: 28.4.2016

Naresh Kumar Saini

....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. V.K. Jindal, Senior Advocate with
Mr. Amardeep Sheoran, Advocate for the petitioner.

AJAY KUMAR MITTAL, J.

1. The petitioner has approached this Court by way of instant petition filed under Articles 226/227 of the Constitution of India, praying for issuance of a writ in the nature of mandamus directing the respondents to release his acquired land measuring 7 kanal 9 marlas situated within the revenue estate of Ajraunda, Sector 12, Gurgaon and the award passed in the year 1978, Annexure P-3, passed in furtherance thereto, 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 the land measuring 7 kanal 9

marlas situated in village Ajraunda, Tehsil and District Faridabad as per jamabandies for the years 1967-68, 1972-73, 1977-78, 1982-83, 1992-93, 1997-98, 2002-03 and 2007-08 (Annexure P-1 Colly). The predecessor-in-interest of the petitioner (father) was owner of 1/4th share of the land and after his death, the said land was mutated in favour of the petitioner, Smt. Kamlesh, Smt. Uma Dev and Parveen vide mutation dated 2.4.1999. On the land in question, the petitioner was running M/s Paragon Industries till the year 1990 and the same was closed in the year 1990 being a polluting unit. Thereafter, the petitioner started a marriage palace, namely, Central Park Paragon on the land in question as is discernible from the photographs (Annexure P-2). Government of Haryana issued a notification dated 7.7.1971 under Section 4 of the Act followed by notification dated 4.2.1972 for acquisition of the land including the land of the petitioner for the development of Sector 12, Ballabgarh, Faridabad. The award, Annexure P-3, was passed in the year 1978. The petitioner is still in physical possession of the land in dispute as is depicted from the receipts (Annexure P-4 Colly) regarding deposit of municipal tax for the years 2010-12 and 2013. 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 in physical possession of the land in dispute 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 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 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 him 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

April 28, 2016
gbs

(RAJ RAHUL GARG)
JUDGE