

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 7894 of 2016

Date of Decision: 28.4.2016

M/s Pascos, New Delhi

....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. Bipan Sharma, Advocate for the petitioner.

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 notifications dated 5.8.1997 (Annexure P-2) issued under Section 4 of the Land Acquisition Act, 1894 (in short "the Act"), dated 29.7.1998 (Annexure P-3) under Section 6 of the Act and the award dated 15.12.1998 (Annexure P-4) qua the land of the petitioner measuring 8 kanals situated within the revenue estate of village Kundli, District Sonapat, 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") and in view of the fact that the adjoining acquired lands of

the private individuals and firms as per jamabandi for the year 2009-10 (Annexure P-10 Colly) were released even after passing of the award, Annexure P-4.

2. The petitioner purchased the land measuring 45 kanal 17 marlas situated within the revenue estate of village Kundli, District Sonapat vide registered sale deed dated 19.10.1981 (Annexure P-1). Government of Haryana vide notification dated 5.8.1997 (Annexure P-2) issued under Section 4 of the Act followed by notification dated 29.7.1998 (Annexure P-3) under Section 6 of the Act, acquired the land including the land of the petitioner. The award was passed on 15.12.1998 (Annexure P-4). The petitioner is still in physical possession of the land in question as per jamabandies for the year 2004-05 (Annexures P-5 and P-6, respectively). As per jamabandi for the year 2009-10 (Annexure P-7), the acquired land comprised in rectangle No. 42//8(8-0), 9(8-0), 10(8-0) and rectangle No. 43//6(7-15), 7/1(7-11), 8/2(6-7) was shown to be excluded from the ownership of the respondent-State. The jamabandi for the year 2009-10 (Annexure P-8) shows the petitioner to be owner in possession. As per letter dated 30.9.2015 (Annexure P-9), out of the total land measuring 45 kanal 17 marlas, only khasra No. 42//8(8-0) was stated to have been acquired whereas the remaining land measuring 38 kanal 2 marlas has been released after the passing of the award. The land bearing khasra No. 42//8(8-0) was not released by the State whereas the adjoining acquired land of other private individuals and firms had been released as is depicted from the jamabandies for the year 2009-10 (Annexure P-10 Colly). Out of the total land measuring 45 kanal 17 marlas, the land measuring 8 kanal comprised in khasra No. 42//8(8-0) has been acquired whereas the

petitioner is in exclusive possession of the remaining land and the respondents are utilizing the acquired land measuring 8 kanal for commercial purposes from the year 1998 onwards as is clear from the photographs (Annexure P-11 Colly) and the petitioner is in possession of the remaining land measuring 38 kanal 2 marlas as is discernible from the photographs (Annexure P-12 Colly). Further, this Court vide order dated 8.10.2013 (Annexure P-13) allowed the writ petition with exemplary costs of ₹ 1 lacs on the erring officials in utilizing the land without payment of the compensation amount. The petitioner moved a representation dated 29.11.2015 (Annexure P-14) to respondent No.1 for release of the land measuring 38 kanal 2 marlas, but to no effect. Even no compensation has been paid to the petitioner. 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 it. 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 moved a representation dated 29.11.2015 (Annexure P-14) to respondent No.1 for releasing the land in question 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 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 its 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