

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 7982 of 2016

Date of Decision: 29.4.2016

Kiranpal

....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. Birender Singh Rana, Senior Advocate with
Mr. Rajinder Paul, Advocate and
Mr. Gagandeep Rana, 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 17.11.2005 (Annexure P-2) issued under Section 4 of the Land Acquisition Act, 1894 (in short "the Act") and dated 7.2.2006 (Annexure P-3) under Section 6 of the Act, 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 father of the petitioner, namely, Shri Sunehri was owner

in possession of the land measuring 70 kanal 9 marlas situated within the revenue estate of village Patla, District Sonapat as per the jamabandi for the year 2003-04 (Annexure P-1). Said Shri Sunehri Lal died and the petitioner had become owner in possession of the land measuring 23 kanal 9 marlas on the basis of a Will executed by his father. Government of Haryana vide notification dated 17.11.2005 (Annexure P-2) issued under Section 4 of the Act followed by notification dated 7.2.2006 (Annexure P-3) under Section 6 of the Act, acquired the land of the petitioner for the development and utilization as residential, commercial, institutional for Sectors 65 to 68, Sonapat. The father of the petitioner filed objections on 10.12.2005 under Section 5-A of the Act. The award was passed on 2.3.2006 (Annexure P-4). The petitioner under Right to Information Act, 2005 (in short "2005 Act") came to know that major portion of the acquired land was released in favour of the private builders. Accordingly, the father of the petitioner moved an application for release of the land from acquisition in view of the policies dated 26.10.2007 and 24.1.2011 (Annexures P-5 and P-6, respectively). The petitioner is still in physical possession of the land in question. No compensation has been paid to him as is clear from the information supplied under the 2005 Act, vide letter dated 3.2.2016 (Annexure P-7). Even, the photographs, Annexure P-8, shows that the land in question is in possession of the petitioner and is being cultivated by him. The petitioner moved a representation dated 8.1.2015 (Annexure P-9) to respondent No.2 for release of the land, but to no effect. 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 8.1.2015 (Annexure P-9) to respondent No.2 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 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 29, 2016
gbs

(RAJ RAHUL GARG)
JUDGE