

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 8085 of 2016

Date of Decision: 29.4.2016

Chanderlekha

....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? **YES**
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. Sidharath Sharma, Advocate for
Mr. Gopal Sharma, 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 26.9.2007 (Annexure P-3) under Section 4 of the Land Acquisition Act, 1894 (in short "the Act"), dated 25.9.2008 (Annexure P-4) under Section 6 of the Act, the award dated 24.9.2010 (Annexure P-5) and the entire acquisition proceedings qua her residential plot measuring 500 square yards and to release the same 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 the plot measuring 500 square yards (0-15) situated within the revenue estate of village Islam Nagar, Tehsil Kalka, District Panchkula. The father of the petitioner, namely, Shri Radhey Nath had purchased the said plot vide registered sale deed dated 29.10.1982. Shri Radhey Nath had executed a Will dated 29.1.1998 in favour of the petitioner. After the death of Shri Radhey Nath, the petitioner had become owner of the plot in question which is discernible from the jamabandi for the year 2014-15 (Annexure P-1) and the mutation (Annexure P-2). Government of Haryana issued a notification dated 26.9.2007 (Annexure P-3) under Section 4 of the Act followed by notification dated 25.9.2008 (Annexure P-4) for acquisition of the land including the plot of the petitioner 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-5). The petitioner is still in physical possession of the plot in question as per photographs, Annexure P-6. No compensation has been paid to her. 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-5). 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 her behest would not be competent. Consequently, finding no merit in the writ petition, the same is hereby dismissed.

**(AJAY KUMAR MITTAL)
JUDGE**

April 29, 2016
gbs

**(RAJ RAHUL GARG)
JUDGE**