

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 8643 of 2016

Date of Decision: 5.5.2016

Ishwar Singh and others

....Petitioners.

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 MR. JUSTICE SHEKHER DHAWAN.**

PRESENT: Mr. Johan Kumar, Advocate for the petitioners.

AJAY KUMAR MITTAL, J.

1. In this petition filed under Articles 226/227 of the Constitution of India, the petitioners have prayed for issuance of a writ in the nature of certiorari for quashing the notifications dated 9.5.1995 (Annexure P-1) issued under Section 4 of the Land Acquisition Act, 1894 (in short "the Act"), dated 6.5.1996 (Annexure P-2) under Section 6 of the Act and the award dated 30.4.1998, 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. As per the averments made in the petition, the petitioners had purchased small plots of land situated within the revenue estate of

village Shahpura, Tehsil Ballabgarh, District Faridabad and had raised construction of 'A' class of residential houses thereon much before the year 1995. Government of Haryana issued a notification dated 9.5.1995 (Annexure P-1) under Section 4 of the Act followed by notification dated 6.5.1996 (Annexure P-2) under Section 6 of the Act for acquisition of land including the residential houses of the petitioners for the development of Sector 62 in Faridabad controlled area. The petitioners moved a representation dated 17.1.2014 (Annexure P-3) to respondents No.1 and 2 for release of their land in view of Section 24(2) of the 2013 Act as they are in physical possession of the property in dispute, but to no effect. Under similar circumstances, this Court vide order dated 1.4.2014 (Annexure P-4) passed in CWP No.6267 of 2014 directed respondents No.2 and 3 therein to treat the writ petition as representation-cum-claim petition on behalf of the petitioners therein and decide the same in accordance with law. The land of J.K. Trading Company which had installed Saw Mill had been released from the acquisition by the respondents vide release order dated 24.6.1997 (Annexure P-5). The petitioners along with others moved an application to the Secretary, Department of Urban Estate, Panchkula along with photographs (Annexure P-6) alleging that there are 90 houses in village Shahpura and the Government had acquired the total land including the construction. Some of the petitioners themselves or their predecessors-in-interest had filed CWP Nos. 15144 and 15488 of 2008 and this Court vide a common order dated 11.5.2010 (Annexure P-7) dismissed the said writ petitions. One similarly situated person, namely, Bhagwati Prasad also filed CWP No. 7662 of 2015 challenging the said acquisition proceedings. This Court vide order dated 24.4.2015 (Annexure P-8)

disposed of the said writ petition. The award was passed on 30.4.1998. The petitioners are still in physical possession of the property in question. No compensation has been paid to them. According to the petitioners, 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 petitioners submitted that the petitioners are in physical possession of the land in dispute and compensation has not been paid to them. 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 petitioners have moved a representation dated 17.1.2014 (Annexure P-3) to respondents No.1 and 2 for releasing the land in question but no action has so far been taken thereon. They, however, prayed that liberty be granted to the petitioners 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 petitioners, 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 petitioners 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 petitioners 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 them within a period of four months from the date of receipt of representation. The petitioners shall be entitled to lead any evidence to substantiate their 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

May 5, 2016
gbs

(SHEKHER DHAWAN)
JUDGE