

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 9317 of 2016

Date of Decision: 12.5.2016

Karam Singh and another

....Petitioners.

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. Rajesh Goyal, 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 mandamus directing the respondents to release their land acquired for the development and utilization of land for residential and commercial purposes for Sectors 5 and 7, Kurukshetra as the acquisition proceedings 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. Government of Haryana vide notification dated 11.3.1981 (Annexure P-1) issued under Section 4 of the Land Acquisition Act, 1894

(in short “the Act”) followed by a notification dated 14.12.1983 under Section 6 of the Act acquired the land measuring 52.66 acres including the land of the petitioners situated within the revenue estate of village Devidasspura, Tehsil Thanesar, District Kurukshetra for the development and utilization of land for residential and commercial purposes of Sectors 5 and 7, Kurukshetra. The award was passed on 12.9.1986 (Annexure P-2). Before the passing of the award, petitioner No.1 filed CWP No. 4030 of 1986 challenging the acquisition qua the land adjoining the land in question as he had constructed the house as well as atta chakki was being run by him in those premises. This Court vide order dated 4.1.1994 (Annexure P-3) allowed the said writ petition and directed the Land Acquisition Collector not to pass the supplementary award qua the super-structures standing therein. The supplementary award qua the super-structures was passed on 27.5.1987. During the pendency of the writ petition, the possession of the land comprised in khasra No. 8/21/1 was not taken. Since the stay was granted, therefore, the possession of the entire land comprising in khasra No.8/21/1 was not taken at the time when possession of the remaining land was taken by respondent No.3 on 12.9.1986. The area measuring 19 marlas is situated adjoining to the residential house as well as atta chakki being run by petitioner No.1 and is in possession of petitioner No.1 as is discernible from the jamabandi for the year 1996-97 (Annexure P-4). Further, a perusal of the site plan (Annexure P-5) and photographs (Annexure P-6) shows the exact location and possession of the petitioners on the land in question. The petitioners are still in physical possession of the land in question. 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. 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 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 12, 2016
gbs

(RAJ RAHUL GARG)
JUDGE