

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 9563 of 2016

Date of Decision: 30.5.2016

Sameer and others

....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. Sanjay Vashisth, 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 seeking declaration to the effect that the acquisition proceedings qua the land of the petitioners stands 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"). Further, a writ of certiorari has been sought for quashing the notifications dated 31.12.1982 (Annexure P-2) issued under Section 4 of the Land Acquisition Act, 1894 (in short "the Act"), dated 9.11.1983 (Annexure P-3) under Section 6 of the Act and the award dated 27.1.1984 (Annexure P-8).

2. Shri Bhagwat Dayal, father of petitioners No.1 to 5 and husband of petitioner No.6 was owner in possession in equal share of the land measuring about 5 acres situated in village Silokhra, Tehsil and District Gurgaon as per jamabandi for the year 1977-78 (Annexure P-1). Said Shri Bhagwat Dayal had died in the year 2012. Government of Haryana issued a notification dated 31.12.1982 (Annexure P-2) under Section 4 of the Act followed by notification dated 9.11.1983 (Annexure P-3) under Section 6 of the Act for acquisition of land including the land of the petitioners for the development and utilization of land as residential, commercial, institutional and industrial area in Sector 16, Gurgaon. Shri Bhagwat Dayal challenged the said acquisition proceedings by filing CWP No. 1094 of 1984 and this Court vide order dated 13.12.1985 dismissed the said petition by noticing that the main question of law has already been decided in CWP No. 694 of 1984 vide order dated 16.7.1985 and both the orders have been appended with the writ petition as Annexure P-4 (Colly). Against the said order, Shri Bhagwat Dayal filed SLP No. 12447 of 1986 which was also dismissed by the Supreme Court vide order dated 29.1.1987 (Annexure P-5). Subsequently, Review Petition No. 24 of 1987 filed in CWP No. 1094/1984 was dismissed by this Court vide order dated 5.6.1987 (Annexure P-6) and SLP No.11998 of 1987 against the order, Annexure P-6, was also dismissed by the Supreme Court vide order dated 14.8.1995 (Annexure P-7). The award was passed on 27.1.1984 (Annexure P-8). As per site plan (Annexure P-9), the land in question is surrounded by the released land. A very big chunk of the adjoining area was released by the respondent in pursuance to the common order dated 27.1.2011 (Annexure P-10) passed by this Court in CWP Nos.

5872, 6081 of 1983 and 2334/1984. As per documents (Annexure P-11), the acquired land of the petitioners had been given to respondent No.6 in exchange to provide direct access to NH-8. The petitioners are still in physical possession of the land in question. However, partial compensation has been received by them and they are ready to re-pay the same. 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 are ready to repay the partial amount of compensation received by 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 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 30, 2016
gbs

(RAJ RAHUL GARG)
JUDGE