

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 9713 of 2016

Date of Decision: 18.5.2016

Muni Lal

....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. Sanjay Vashisth, 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 a writ of mandamus seeking declaration to the effect that the acquisition proceedings qua the land in question stand 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 prayer has been made for quashing the notifications dated 15.2.1990 (Annexure P-4) issued under Section 4 of the Land Acquisition Act, 1894 (in short "the Act"), dated 14.2.1991 (Annexure P-5) under Section 6 of the Act and the award dated 11.2.1993 (Annexure P-6).

2. The land measuring 1 kanal 10 marlas bearing khatauni No. 235, khasra No. 274 situated in Rewari was earlier purchased by one Sanjay Kumar vide registered sale deed dated 4.2.1987 (Annexure P-1) who sold the said land to Lachman Singh, Piara Singh, Attar Singh and Smt. Batto Devi. Subsequently, vide sale deed dated 3.7.1989 (Annexure P-2), the petitioner purchased 15 marlas of land from the shares of Attar Singh and Smt. Batto Devi. After purchase of the said land, the petitioner constructed some shops and raised fore-wall which is discernible from the photographs (Annexure P-3 Colly). Government of Haryana issued a notification dated 15.2.1990 (Annexure P-4) under Section 4 of the Act followed by notification dated 14.2.1991 (Annexure P-5) under Section 6 of the Act for acquisition of land including the land of the petitioner. The award was passed on 11.12.1993 (Annexure P-6). Khasra No. 274 had been shown to be owned by Punjab Wakf Board, but subsequently, the issue had been decided by the trial Court vide judgment and decree dated 22.5.1982 that khasra No. 274 did not belong to Punjab Wakf Board. The said judgment was upheld upto this Court in RSA No. 1506 of 1988 decided on 17.7.2015 (Annexure P-7). The petitioner challenged the said acquisition in this Court by way of CWP No. 3361 of 1993 (Annexure P-8). The said writ petition was clubbed with other petitions challenging the said acquisition. This Court vide orders dated 13.7.1998/5.1.1995 (Annexure P-9 Colly) allowed the writ petitions and directed the respondents to either acquire the land of other landowners which had been released and originally formed part of the notification issued under Section 4 of the Act or to release the land of the petitioner(s) as well. In pursuance thereto, the respondent No.2 vide its letter dated 7.8.2000 (Annexure P-10) agreed to release the land from

acquisition proceedings in the cases subject matter of the writ petitions. On enquiry under the Right to Information Act, 2005, the petitioner was informed vide letter dated 20.2.2013 (Annexure P-11) that the decision qua his land was still pending. Thereafter, the petitioner sent letters dated 30.8.2013 (Annexure P-12), dated 20.8.2014 (Annexure P-13) and 5.1.2015 (Annexure P-14) for release of the land in question. The physical possession of the land in question has not been taken till date. The petitioner moved an application to the Tehsildar, Rewari for notification of the possession and construction report on the spot in khasra No. 274 who vide report dated 5/7.8.2015 (Annexure P-15) submitted that in the land measuring 15 marlas, 6-8 shops had been constructed and boundary wall had been raised over the aforementioned area and electricity meter was also installed. The petitioner deposited development charges and house tax vide receipts dated 2.8.2005 (Annexures P-16 and P-17, respectively). The petitioner is still in physical possession of the land in question. No compensation has been paid to him. 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 in physical possession of the land in dispute and compensation has not been paid to him. 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 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 him 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

May 18, 2016
gbs

(RAJ RAHUL GARG)
JUDGE