

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 4463 of 2017

Date of Decision: 6.3.2017

Subhash Chand Garg and others

....Petitioners.

Versus

State of Haryana and others

...Respondents.

**CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MR. JUSTICE RAMENDRA JAIN.**

PRESENT: Mr. Brijender Kaushik, 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 25.11.2003 (Annexure P-6) issued under Section 4 of the Land Acquisition Act, 1894 (in short “the Act”) and dated 9.9.2005 (Annexure P-9) under Section 6 of the Act having been 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. Petitioners No.2, 3 and 5 are the owners of land measuring 2 kanal 7 marlas situated within the revenue estate of village Patti Mehar, Tehsil and District Ambala purchased by petitioners No.2 and 3 along with the father of petitioner No.5 vide sale deeds dated 9.8.1990 (Annexure P-1)

and dated 8.8.1990 (Annexure P-2). Petitioners No.4 and 6 are the owners

of the land measuring 1 kanal 4 marlas and 410 square yards situated within the revenue estate of village Patti Mehar, Tehsil and District Ambala purchased by them vide sale deeds dated 16.4.1991, 16.8.1991 and 17.10.1990 (Annexures P-3 to P-5, respectively). Petitioner No.7 is owner in possession of the land purchased vide registered sale deed dated 24.4.1991. Mutations thereof have already been recorded in favour of the petitioners. The petitioners had constructed their residential houses having 'A' class construction. The respondents have acquired the said land vide notification dated 25.11.2003 (Annexure P-6) issued under Section 4 read with Section 17 of the Act followed by notification dated 27.11.2003 (Annexure P-7) under Section 6 of the Act. Some of the landowners challenged the said notifications in this Court by filing CWP No. 17134 of 2004 and this Court vide order dated 25.9.2004 (Annexure P-8) disposed of the said writ petition along with other petitions with a direction that the declaration under Section 6 of the Act qua the petitioners therein shall be deemed to have been withdrawn and the respondents shall have the right to issue a fresh declaration after consideration of their claim. In pursuance thereto, the petitioners filed objections under Section 5-A of the Act. However, the respondents vide notification dated 9.9.2005 (Annexure P-9) acquired the land of the petitioners for the development and utilization of the land for road between Sectors 8 and 11. Thereafter, the petitioners approached this Court by way of CWP No. 11509 of 2006 and this Court vide order dated 7.7.2008 (Annexure P-10) disposed of the said writ petition along with other petitions as the respondents had submitted that the Government would consider the release of the area of the petitioners which did not fall in the alignment of road/green belt. In response thereto, the

respondents released the land of the petitioners and others except the land comprised in khasra Nos. 16//16/2, 7/3, 14/3 etc. The petitioners moved a representation dated 12.8.2016 (Annexure P-11) to respondent No.4 and the Estate Officer, Ambala for release of the land in question, but to no effect. They are still in physical possession of the land in question. No compensation has been paid to the petitioners. 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 no compensation has 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 sent a representation dated 12.8.2016 (Annexure P-11) to respondent No.4 and the Estate Officer, Ambala for release of the land in question, but no action has so far been taken thereon. He, 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

March 6, 2017
gbs

(RAMENDRA JAIN)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No