IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 14518 of 2015
Date of decision: 22.7.2015

Ramesh Devi

……Petitioner

Vs.

State of Haryana and others

…..Respondents

CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Sanjay Vashisht, Advocate for the petitioner.

Ajay Kumar Mittal,J.

1. The petitioner seeks quashing of notifications dated 6.1.2006 and 9.8.2006 issued under Sections 4 and 6 of the Land Acquisition Act, 1894 (in short, "the Act") and the award dated 7.12.2006, Annexures P.2 to 4 respectively to the extent that the land owned and possessed by her for residential purpose is adjacent to the released land and surrounded by private colonizers. Further prayer has been made for releasing the land as adjoining land has already been released vide order dated 14.5.2008, Annexure P.8 in view of the government policy discussed in the order dated 20.11.2007 passed by this Court in CWP No.19290 of 2006 and for declaring the acquisition proceedings to have lapsed in view of provisions of section 24(2) of the Right to Fair compensation and Transparency in land Acquisition, Rehabilitation and Resettlement Act, 2013 (in short, "the 2013

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Act").

2. A few facts relevant for the decision of the controversy involved as narrated in the petition may be noticed. The land in question in the present petition was the subject matter of CWP No.19290 of 2006 (***Hira Lal and another vs. State of Haryana and others)***. In the said writ petition, the plea of construction of the house and the same being surrounded by the private colonizers was raised. The land was situated in Mustil No.122, Killa Nos.22(8-0), 23/1/1(1-13) and 21 min (1-15) situated in Village Rewari, Tehsil and District Rewari. Notification dated 6.1.2006 was issued under Section 4 of the 1894 Act followed by notification under Section 6 of the 1894 Act on 9.8.2006. The award was passed on 7.12.2006. Vide order dated 20.11.2007, the said writ petition was disposed of in view of the consideration of the claim of the petitioners in terms of the then prevailing government policy. Thereafter, the respondents passed the release order dated 14.5.2008, Annexure P.8. The petitioner submitted an application dated 21/22.2.2011, Annexure P.9 to respondent No.4 to release the land in Mustil No.122//23/1/1(1-13) by including the same in the release order dated 14.5.2008. According to the petitioner, by mistake the land falling in Killa No.23/1/1(1-13) has neither been considered for release nor the release has been declined. Earlier the land was mutated in favour of Rohtash on 7.6.2006 (petitioner No.2 in CWP No.19290 of 2006) but subsequently the said Rohtash transferred the land in the name of one Hari Ram son of Umrao and mutation was entered in his name. The State Government was never recorded as owner in the revenue record. Thus on 2.6.2009 vide registered sale deed, the petitioner purchased the land in question from the said Hari Ram and the same was entered in the mutation

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also. According to the petitioner, the respondent authorities had already charged the development charges amounting to ₹ 10,12,920/- for the land in question. The present petitioner is subsequent purchaser. Till date, there was no dispute but suddenly Haryana Urban Development authorities started claiming their possession as the release order did not mention the land falling in Killa No.23/1/1(1-13). Hence the instant writ petition.

3. Learned counsel for the petitioner contended that the action of the respondents in not releasing the land of the petitioner is illegal and arbitrary. Reference has been made to the judgments in ***Shanti Sports Club and another vs. Union of India and others,*** (2009) 15 SCC 705 and ***Meera Sahni vs. Lt. Governor of Delhi and others,*** (2008) 9 SCC 177.

4. We have heard learned counsel for the petitioner.

5. It is the admitted position that the land in the present case was acquired in the year 2006. The award was passed on 20.11.2007. The petitioner purchased the land in dispute on 2.6.2009 and being subsequent vendee cannot maintain his claim for release of land under the Act or 2013 Act.

6. The Apex Court following ***Tika Ram v. State of UP,*** *(2009) 10 SCC 689,* ***Meera Sahni v. Lieutenant Governor of Delhi and others*** *(2008) 9 SCC 177* and their other earlier pronouncements while considering the rights of a subsequent transferee after the issuance of notification for acquisition under Section 4 of the Act in ***V. Chandrasekaran and another v. Administrative Officer and others*** *(2012) 12 SCC 133* held that he gets no right to challenge acquisition proceedings and also the validity of the notification or the irregularity in taking possession of the land. It was also noticed that sale deed executed in favour of such purchaser is void against

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the State and at best he can only claim compensation and no other right accrues in his favour. The relevant observation reads thus:-

> 5. We have considered the rival submissions made by the learned counsel for the parties and perused the records.
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> However, before coming to the merit of the case, it is desirable to consider the legal issues involved herein.
>
> Whether subsequent purchaser can challenge the acquisition proceedings:
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> 6. The issue of maintainability of the writ petitions by the person who purchases the land subsequent to a notification being issued under Section 4 of the Act has been considered by this Court time and again.
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> In ***Pandit Leela Ram v. Union of India, AIR 1975 SC 2112***, this Court held that, any one who deals with the land subsequent to a Section 4 notification being issued, does so, at his own peril. In ***Sneh Prabha v. State of Uttar Pradesh, AIR 1996 SC 540***, this Court held that a Section 4 notification gives a notice to the public at large that the land in respect to which it has been issued, is needed for a public purpose, and it further points out that there will be "an impediment to any one to encumber the land acquired thereunder." The alienation thereafter does not bind the State or the beneficiary under the acquisition. The purchaser is entitled only to receive compensation. While deciding the said case, reliance was

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placed on an earlier judgment of this Court in ***Union of India v. Shri Shiv Kumar Bhargava & Ors., JT (1995) 6 SC 274.***

7. Similarly, in ***U.P. Jal Nigam v. M/s. Kalra Properties Pvt. Ltd., AIR 1996 SC 1170***, this Court held that, purchase of land after publication of a Section 4 notification in relation to such land, is void against the State and at the most, the purchaser may be a person-interested in compensation, since he steps into the shoes of the erstwhile owner and may therefore, merely claim compensation. (See also: ***Star Wire (India) Ltd. v. State of Haryana & Ors., (1996) 11 SCC 698)***.

8. In ***Ajay Kishan Singhal v. Union of India, AIR 1996 SC 2677; Mahavir & Anr. v. Rural Institute, Amravati & Anr., (1995) 5 SCC 335; Gian Chand v. Gopala & Ors., (1995) 2 SCC 528;*** and ***Meera Sahni v. Lieutenant Governor of Delhi & Ors., (2008) 9 SCC 177***, this Court categorically held that, a person who purchases land after the publication of a Section 4 notification with respect to it, is not entitled to challenge the proceedings for the reason, that his title is void and he can at best claim compensation on the basis of vendor's title. In view of this, the sale of land after issuance of a Section 4 notification is void and the purchaser cannot challenge the acquisition proceedings. (See also: ***Tika Ram v. State of U.P., (2009) 10 SCC 689***).

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> 9. In view of the above, the law on the issue can be summarized to the effect that a person who purchases land subsequent to the issuance of a Section 4 notification with respect to it, is not competent to challenge the validity of the acquisition proceedings on any ground whatsoever, for the reason that the sale deed executed in his favour does not confer upon him, any title and at the most he can claim compensation on the basis of his vendor's title."

7. The aforesaid view was reiterated in ***K.N. Aswathnarayana Setty (D) Tr. LRs and others v. State of Karnataka and others, AIR 2014 SC 279*** in the following terms:-

> "9. By operation of law, as this Court quashed the de-notification of acquisition proceedings, the proceedings stood revived. In **V. Chandrasekaran & Anr. vs. The Administrative Officer & Ors.**, **2012(4) R.C.R. (Civil) 588 : 2012 (5) Recent Apex Judgments (R.A.J.) 145 : JT 2012 (9) SC 260**, this Court considered the right of purchaser of land subsequent to the issuance of Section 4 notification and held that any one who deals with the land subsequent to a Section 4 notification being issued, does so, at his own peril. Section 4 notification gives a notice to the public at large that the land in respect to which it has been issued, is needed for a public purpose, and it further points out that there will be "an impediment to any one to encumber the land acquired thereunder."

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> The alienation thereafter does not bind the State or the beneficiary under the acquisition. In fact, purchase of land after publication of a Section 4 notification in relation to such land, is void against the State and at the most, the purchaser may be a person interested in compensation, since he steps into the shoes of the erstwhile owner and may therefore, merely claim compensation. Thus, the purchaser cannot challenge the acquisition proceedings. While deciding the said case this court placed reliance on a very large number of its earlier judgments including **Leela Ram v. Union of India & Ors., AIR 1975 SC 2112; Smt. Sneh Prabha etc. v. State of Uttar Pradesh & Anr., AIR 1996 SC 540; Meera Sahni v. Lieutenant Governor of Delhi & Ors.**, **2008(5) Recent Apex Judgments (R.A.J.) 172: (2008) 9 SCC 177;** and **Tika Ram & Ors. v. State of U.P. & Ors.**, **(2009) 10 SCC 689.**
>
> 10. The law on the issue can be summarised to the effect that a person who purchases land subsequent to the issuance of a Section 4 notification with respect to it, is not competent to challenge the validity of the acquisition proceedings on any ground whatsoever, for the reason that the sale deed executed in his favour does not confer upon him, any title and at the most he can claim compensation on the basis of his vendor's title."

8. Examining the issue relating to maintainability of petition

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under Section 24(2) of the 2013 Act at the behest of subsequent vendee, it may be noticed that a landowner has primarily two distinct rights in land acquisition proceedings. One is against the State acquiring the land and the other is with respect to enforcing right against the vendor. Further, bifurcating the rights against the State, two rights flow in favour of the landowner. First right entitles a landowner to lay a challenge to the acquisition proceedings itself whereas alternatively, landowner can claim just and adequate compensation in respect of the property under acquisition. The Apex Court in ***V. Chandrasekaran*** and ***K.N. Aswathnarayana Setty (D) Tr. LRs and others's cases (supra)*** had categorically laid that in so far as subsequent vendee who acquires the property after issuance of Section 4 notification, the said transaction is void qua the State and the subsequent vendee has a right only to receive compensation. Once that is so, a void transaction qua State would not confer any right in favour of the subsequent vendee, in the absence of any specific provision in the 2013 Act which transforms a void transaction qua the State into a legally enforceable right. In other words, no absolute right is translated in favour of the subsequent vendee as against the State except to receive the compensation. However, the contract between the vendor and the vendee, viz-a-viz their mutual rights, the same is enforceable as contractual rights by the respective parties. Thus, in view of above, the subsequent vendee cannot lay any right for claiming lapse of acquisition notification under Section 24(2) of the 2013 Act.

9. Suffice it to notice that the judgments relied upon by the learned counsel for the petitioner being based on individual fact situation

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involved therein do not advance the case of the petitioner.

10. In view of the above, no ground is made out for interference in writ jurisdiction under Articles 226/227 of the Constitution of India. Consequently, finding no merit in the petition, the same is hereby dismissed.

(Ajay Kumar Mittal)
Judge

July 22, 2015

(Rekha Mittal)
Judge

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