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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No. 15299 of 2014 (O&M)

Date of decision: 5.11.2015

M/s Shiv Building Material Store

...Petitioner

vs.

State of Punjab and ors

....Respondents

**CORAM: - HON'BLE MR. JUSTICE HEMANT GUPTA
HON'BLE MRS. JUSTICE RAJ RAHUL GARG**

Present: - Mr. Sham Lal Bhalla, Advocate for the petitioner.

Mr. D.S. Sobti, Addl. AG, Punjab

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HEMANT GUPTA, J

Challenge in the present writ petition is to the notifications dated 7.5.1991 (Annexure P-2) and 18.3.1992 (Annexure P-3) issued under Sections 4 and 6 of the Land Acquisition Act, 1894 (for short 'the Act'). The challenge is also to the Award dated 15.3.1994 (Annexure P-4) awarding compensation, inter alia, on the ground that no compensation has been deposited or possession taken, therefore, the proceedings stands lapsed in view of Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Ac, 2013 (for short 'the 2013 Act').

Petitioner has purchased the land subject matter of acquisition vide the sale deed dated 11.1.1992 and 14.1.1992 i.e., after the publication of the notification under Section 4 of the Act. The issue: whether the

purchaser of land after publication of Section 4 of the Act is entitled to dispute the acquisition and claim benefit of Section 24(2) of the 2013 Act has been examined by this Court in M/s Vardaraj Buildcon Pvt. Ltd. and others versus State of Haryana and others, CWP No. 4516 of 2014 decided on 10.9.2015. The Court observed as under: -

“In *Sneh Prabha v. State of U.P.*, (1996) 7 SCC 426, the Hon’ble Supreme Court declined to grant benefit of rehabilitation, when the Court held to the following effect:-

“5. Though at the first blush, we were inclined to agree with the appellant but on deeper probe, we find that the appellant is not entitled to the benefit of the Land Policy. It is settled law that any person who purchases land after publication of the notification under Section 4, does so at his/her own peril. The object of publication of the notification under Section 4 is notice to everyone that the land is needed or is likely to be needed for public purpose and the acquisition proceedings points out an impediment to anyone to encumber the land acquired there-under. It authorizes the designated officer to enter upon the land to do preliminaries etc. Therefore, any alienation of land after the publication of the notification under Section 4 does not bind the Government or the beneficiary under the acquisition. On taking possession of the land, all rights, titles and interests in land stand vested in the State, under Section 16 of the Act, free from all encumbrances and thereby absolute title in the land is acquired thereunder. If any subsequent purchaser acquires land, his/her only right would be subject to the provisions of the Act and/or to receive compensation for the land. In a recent judgment, this Court in *Union of India vs. Shri Shivkumar Bhargava & Ors.* [JT 1995 (6) SC 274] considered the controversy and held that a person who

purchases land subsequent to the notification is not entitled to alternative site. It is seen that the Land Policy expressly conferred that right only on that person whose land was acquired. In other words, the person must be the owner of the land on the date on which notification under Section 4 was published. By necessary implication, the subsequent purchaser was elbowed out from the policy and became disentitled to the benefit of the Land Policy.”

In *Rajasthan State Industrial Development and Investment Corporation v. Subhash Sindhi Cooperative Housing Society, Jaipur and others*, (2013)5 SCC 427, the acquisition proceedings were challenged by the Society after purchase of the land, after publication of the notification under Section 4 of the Act. The Court held to the following effect:-

“13. There can be no quarrel with respect to the settled legal proposition that a purchaser, subsequent to the issuance of a Section 4 Notification in respect of the land, cannot challenge the acquisition proceedings, and can only claim compensation as the sale transaction in such a situation is Void qua the Government. Any such encumbrance created by the owner, or any transfer of the land in question, that is made after the issuance of such a notification, would be deemed to be void and would not be binding on the Government. (*Vide: Gian Chand v. Gopala & Ors.*, (1995) 2 SCC 528; *Yadu Nandan Garg v. State of Rajasthan & Ors.*, AIR 1996 SC 520; *Jaipur Development Authority v. Mahavir Housing Coop. Society, Jaipur & Ors.* (1996) 11 SCC 229; *Secretary, Jaipur Development Authority, Jaipur v. Daulat Mal Jain & Ors.*, (1997) 1 SCC 35; *Meera Sahni v. Lieutenant Governor of Delhi & Ors.*, (2008) 9 SCC 177; *Har Narain (Dead) by Lrs. v. Mam Chand (Dead) by LRs. & Ors.*, (2010) 13 SCC 128; and *V. Chandrasekaran & Anr. v.*

The Administrative Officer & Ors., JT 2012 (9) SC 260).

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20. The respondent society has placed reliance upon various policies of the Government, which allowed the exemption of land upon which construction existed on the date of issuance of Section 4 Notification. In the instant case, the respondent society entered into an agreement to sell, subsequent to the issuance of the Section 4 Notification, and therefore, the question of the existence of any construction on the said land by any of its members on the date of Section 4 Notification does not arise. The aforesaid policy decision therefore, must be implemented, while strictly adhering to the terms incorporated therein, as has been held by this Court in *Bondu Ramaswamy & Ors. v. Bangalore Development Authority & Ors.*, (2010) 7 SCC 129. In the said case, this Court examined the issue of discrimination with respect to releasing land belonging to one set of interested persons, while rejecting the release of land belonging to other similarly situated persons, whose land was situated in close vicinity to the land released.”

We have heard learned counsel for the parties and find that the petitioners, who are the purchasers of land after publication of the notification under Section 4 of the Act are not the land owners for whose benefits the provisions of Section 24(2) of the 2013 Act, have been enacted. The petitioners have purchased the land for the purposes of setting up of a colony. More than 11 acres of land purchased by the petitioners has been released from acquisition and a licenece for the land measuring 136.269 acres has also been granted. The petitioners have purchased the land with their eyes wide open that the land is subject matter of acquisition. They have taken a calculated risk. The petitioners have not disputed the acquisition proceedings for 7 years after the award was announced. The provisions of the 2013 Act are for the benefit of the land owners, whose land has not been put to use for a period of 5 years

after the announcing of award. The petitioners, the purchasers of the land are not the tillers of land but has purchased property only with a view to develop colony for their profit motive.

In the light of the judgments of the Hon'ble Supreme Court in Sneh Prabha's case (supra) and Rajasthan State Industrial Development and Investment Corporation's case (supra), we find that the petitioners have no right to dispute the acquisition proceedings even under Section 24(2) of the 2013 Act. The petitioners can only claim compensation for the acquired land."

In view of the above judgment, we do not find any merit in the present petition.

Dismissed.

(HEMANT GUPTA)
JUDGE

(RAJ RAHUL GARG)
JUDGE

6.11.2015
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