

IN THE PUNJAB & HARYANA HIGH COURT AT CHANDIGARH

Date of Decision: 18.08.2015

CWP No.20840 of 2014

Rajiv Kumar

...Petitioner

Versus

State of Haryana & others

...Respondents

Present: Mr. Gaurav Mohunta & Mr. Gaurav Gogna, Advocates,
for the petitioner.

Ms. Palika Monga, DAG, Haryana, for respondent No.1.

Ms. Aakanksha Sawhney, Advocate, for respondent Nos.2 to 5.

CWP No.21135 of 2014

Ashok Kumar & another

...Petitioners

Versus

State of Haryana & others

...Respondents

Present: Mr. Gaurav Mohunta & Mr. Gaurav Gogna, Advocates,
for the petitioners.

Ms. Palika Monga, DAG, Haryana, for respondent No.1.

Mr. Padamkant Dwivedi, Advocate, for respondent Nos.2 to 5.

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

HEMANT GUPTA, J. (ORAL)

This order shall dispose of aforementioned two writ petitions
i.e. CWP No.20840 of 2014 and CWP No.21135 of 2014. However, for the
facility of reference, the facts are taken from CWP No.20840 of 2014,
wherein challenge is to the notifications dated 30.11.2004 and 28.11.2005
issued under Sections 4 and 6 of the Land Acquisition Act, 1894 (for short

‘the Act’) respectively in view of the provisions of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re-settlement Act, 2013 (for short ‘the 2013 Act’).

As per the facts pleaded, the petitioner has taken the land in question from the Haryana Wakf Board on lease on 21.12.2005 i.e. after the publication of notifications under Sections 4 & 6 of the Act. Learned counsel for the petitioner relies upon the Division Bench judgments of this Court in Smt. Kamla Devi & others Vs. State of Haryana & others 2015 (1) PLJ 277 as well as of Delhi High Court reported as M/s I.S.Dye Stuff Industries Ltd. Vs. Union of India & others 2015 (148) DRJ 705 , to contend that a purchaser has a right to protect possession in terms of Section 24(2) of the 2013 Act. In the aforesaid judgments, reliance is placed upon Hon’ble Supreme Court judgment in Union of India Vs. Shiv Raj (2014) 6 SCC 564.

On the other hand, learned counsel for the respondents relied upon the Hon’ble Supreme Court judgment in Meera Sahni Vs. Lt. Governor of Delhi, 2008 (9) SCC 177 to contend that a subsequent purchaser has no right to dispute the acquisition proceedings under Sections 4 & 6 of the Act. Since the petitioner is not even the purchaser, but a lessee, he cannot dispute the acquisition proceedings. It is also argued that the Wakf Board has challenged the acquisition proceedings before this Court by way of CWP No.12219 of 2008, which has since been dismissed on 17.07.2008. The Wakf Board has preferred Special leave to Appeal No.69 of 2009, which is pending consideration before the Hon’ble Supreme Court. It is argued that since the writ petition filed by the owner stands dismissed, the petitioner i.e. a lessee under the Wakf Board has no independent right to challenge the acquisition proceedings.

We have heard learned counsel for the parties at length and find no merit in the present petitions. In Kamla Devi’s case (supra), the Bench

noticed the judgment of Hon'ble Supreme Court dealing with Section 24(2) of the 2013 Act, but distinguished the judgments of this Court in CWP No.2304 of 2014 titled 'M/s Packing Industries Vs. State of Haryana & others' as well as of Hon'ble Supreme Court in Meera Sahni's case (supra) and V. Chandrasekaran & another Vs. The Administrative Officer, 2012 (12) SCC 133. We find that the attention of the Court was not drawn to the consistent view observed by the Hon'ble Supreme Court that a subsequent purchaser is not entitled to dispute the acquisition proceedings.

In Meera Sahni's case (supra), the notifications under Sections 4 and 6 of the Act were issued on 24.10.1961 and 04.01.1969 respectively. Notice under Section 9 was issued on 26.04.1983. The petitioner therein purchased the land in the year 1980. It is in these circumstances, the Court examined the issue that after vesting of the land with the State whether the purchaser has a right to dispute the acquisition. The Court held that subsequent purchaser cannot challenge the acquisition proceedings.

In V. Chandrasekaran's case (supra) also while considering its earlier judgments, the Hon'ble Supreme Court observed as under:

“15. 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. In *Lila Ram v. Union of India (1975) 2 SCC 547* 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 U.P.(1996) 7 SCC 426*, 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 placed on

an earlier judgment of this Court in *Union of India v. Shivkumar Bhargava* (1995) 2 SCC 427.

16. Similarly, in *U.P. Jal Nigam v. Kalra Properties (P) Ltd.* (1996) 3 SCC 124, 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* (1996) 11 SCC 698.]

17. In *Ajay Krishan Shinghal v. Union of India* (1996) 10 SCC 721, *Mahavir v. Rural Institute* (1995) 5 SCC 335, *Gian Chand v. Gopala* (1995) 2 SCC 528 and *Meera Sahni v. Lt. Governor of Delhi* (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)

18. In view of the above, 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".

Such aspect having not brought to the notice of the Bench, the order passed by this Court in Kamla Devi's case (supra) relying upon the judgments interpreting Section 24(2) of the 2013 Act is of no assistance to the petitioner(s).

A Division Bench of this Court in C.W.P.No.2304 of 2014 titled 'M/s National packing Industries Vs. State of Haryana & others' decided on 08.08.2014 has held to the following effect:

“13. The petitioner who got executed the Lease Deed after issuance of Section 4 notification and the so-called Sale Deed in the year 1995 much after passing the Award, thus, has no locus standi to question the acquisition proceedings much less to claim the benefit under 2013 Act. No fresh cause of action has accrued to the petitioner on coming into force of the 2013 Act. No person can be permitted to circumvent the law in the manner suggested by the petitioner by trying to invoke misplaced sympathy.

14. The petitioners had admittedly shifted their factory premises from the land in question in the year 1999 and now in a turn around are alleging that the said land should be released from acquisition because their residential house is in existence over the said land. Further more, once it is clear that the petitioners did not have any claim and were not interested person before the acquisition of the land, the petitioners are not entitled to the relief claimed in this writ petition. It would be a travesty of justice in case the prayer of the petitioners is allowed wherein the original land owner had accepted the compensation qua the land. The petitioners who allege to have purchased the land vide sale deed dated 21.02.1995 came into the picture even as a lessee after the issuance of the notification under Section 4 of the Act on 01.10.1973, cannot seek the benefit of 2013 Act as the cause to invoke provisions of 2013 Act originates from the Old Act where under petitioner had no locus-standi to challenge the acquisition.

15. The argument of learned Senior counsel for the petitioner that in view of the 2013 Act, the acquisition is deemed to have lapsed because the petitioners continued to be in possession of the demised land is not tenable in the facts and circumstances of the case. The provisions of the beneficial legislation cannot be permitted to be misused to the undue advantage of a person, who managed to hold on to the acquired land without any right whatsoever for all these years. It would amount to giving a premium on a wrong doing, which cannot be permitted.”

We agree with the findings recorded above and in fact, bound with it.

We are also unable to agree with the view taken by the Delhi High Court in M/s I.S.Dye Stuff Industries Ltd.’s case (supra), wherein it

has been observed that the occupant is seeking only declaration in the light of Section 24(2) of the 2013 Act. It is the substantive relief, which is material to determine the scope of the proceedings. The petitioner(s) have substantially sought to dispute acquisition proceedings although they are lessee of Wakf Board. To term the relief in the form of declaration or a writ of certiorari is only play of words, but the fact remains that the petitioner(s) have sought to quash the notifications under Sections 4 & 6 of the Act. Thus, the petitioners will not be entitled to invoke the writ jurisdiction of this Court, as a lessee of the land after the publication of notifications under Sections 4 & 6 of the Act. More so, when the writ petition filed by the owner stands dismissed.

Consequently, without examining the merits of the case, the present writ petitions are dismissed, as the petitioner(s) have no locus standi to challenge the acquisition proceedings.

(HEMANT GUPTA)
JUDGE

18.08.2015
Vimal

(RAJ RAHUL GARG)
JUDGE