

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Writ Petition No. 5527 of 2013 (O&M)

Date of decision : 31.03.2015

Logical Developers Pvt. Ltd. and others

....Petitioners

Versus

State of Haryana and others

....Respondents

**CORAM:- HON'BLE MR. JUSTICE HEMANT GUPTA
HON'BLE MRS. JUSTICE LISA GILL**

Present: Mr. Sanjiv Sharma, Senior Advocate with
Mr. Mukul Aggarwal, Advocate for the petitioners.

Mr. Vishal Garg, Addl. AG, Haryana for respondent No 1.

Mr. Kamal Sehgal, Advocate for respondent No. 2.

HEMANT GUPTA, J.

Challenge in the present writ petition is to a notification under Section 6 the Land Acquisition Act, 1894 (for short 'the Act') dated 13.03.2012 published on 16.03.2012 for the reason that the same is beyond the period prescribed in terms of Section 6 of the Act and to the notification dated 25.11.2011 published under Section 6 of the Act on the ground that the purpose of acquisition cannot stand in view of the publication of development plans under Section 5 of the Punjab Scheduled Roads and Controlled Areas Restriction of Unregulated Development Act, 1963 contemplating the land in question falls within the residential zone whereas notification under Section 6 of the Act is for acquisition of land for the purposes of Industrial Model Township.

The facts in brief are that a notification under Section 4 of the Act

was published on 17.09.2004 by invoking the urgency provisions, thus dispensing with the right to file objections by the land owners. The present land owner challenged the said notification before this Court wherein this Court stayed dispossession of the land owners on 02.11.2004. The writ petition was allowed on 14.03.2011 quashing the urgency provisions but giving liberty to the State to proceed with the acquisition under Section 6 of the Act.

Subsequently, the State has published two notifications under Section 6 of the Act. The first notification was published on 25.11.2011 whereas, the second notification on 16.03.2012. Notification dated 16.03.2012 is sought to be challenged on the ground that it is delayed by 43 days after excluding the period of ad interim order passed by this Court in the writ petition filed by the petitioner i.e. by excluding the period from 02.11.2004 till 02.03.2011, therefore, such notification is illegal. It is contended that the stand of the respondents in the written statement is that the period spent in obtaining copy of the order of the Court is also required to be excluded, which is not tenable in view of the judgment of Hon'ble Supreme Court in **Padma Sundara Rao and others versus State of T.N. and others (2002) 3 SCC 533.** It has been held that the period of stay alone can be excluded and not the period spent in obtaining certified copies of the order of this Court. The Court held to the following effect:-

16. The plea relating to applicability of the stare decisis principles is clearly unacceptable. The decision in *K. Chinnathambi Gounder* was rendered on 22-6-1979 i.e. much prior to the amendment by the 1984 Act. If the legislature intended to give a new lease of life in those cases where the declaration under Section 6 is quashed, there is no reason why it could not have done so by specifically providing for it. The fact that the legislature specifically provided for periods covered by orders of stay or injunction clearly shows that no other period was intended to be excluded and that there is no scope for providing any other period of limitation. The

maxim *actus curiae neminem gravabit* highlighted by the Full Bench of the Madras High Court has no application to the fact situation of this case.

17. The view expressed in *Narasimhaiah case* and *Nanjudaiah case* is not correct and is overruled while that expressed in *A.S. Naidu case* and *Oxford case* is affirmed”.

Mr. Sehgal, learned counsel for respondent No. 2 could not dispute the proposition of law laid down by the aforesaid judgment but asserted that in fact the petitioner is a purchaser of land having purchased the same on 16.05.2005, therefore, as a purchaser, the petitioner is not entitled to dispute the notification under Section 6 of the Act. Reliance is placed on two judgments of the Hon'ble Supreme Court in **Meera Sahni versus Lt. Governor of Delhi and others 2008 (9) SCC 177** and **V. Chandrasekran and another versus The Administrative Officer and others 2012 (12) SCC 133**.

Mr. Sharma, learned senior counsel for the petitioner distinguished the aforesaid judgments and argued that the petitioner is seeking bar of the statutory provisions and is not taking any ground to dispute the notification under Section 4 of the Act. It is contended that the rights of the purchaser from the land owner cannot be less than the rights of the seller. All rights, which the seller had in the land, has been transferred to the petitioner and, therefore, the petitioner has a right to challenge the notification under Section 6 of the Act on the grounds, which were available to the land owner, from which the petitioners have purchased the land. It is also pointed out that in fact the respondent has issued notice on 07.01.2012 to the petitioners to file objections after the writ petition filed by the petitioner was allowed on 14.03.2011. Therefore, it cannot be said that the petitioner has no right to dispute the publication of notification under Section 6 of the Act.

In ***Meera Sahni's*** case (supra), the notification under Section 4 of the Act was issued on 24.10.1961 and that notification under Section 6 of the

Act on 04.01.1969. 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 as he has right to get compensation. Such finding was returned in the facts of the case where the petitioner has purchased the land the publication of the declaration under Section 6 of the Act.

In **V. Chandrasekran's** case (supra) notification under Section 4 of the Act was issued on 15.05.1978 and notification under Section 6 of the Act on 06.06.1981. The petitioners did not challenge the acquisition proceedings whereas some other land owners had challenged the acquisition proceedings. The writ petitions of other landowners were allowed holding that the inquiry in pursuance of the objections filed was not conducted fairly. Therefore, while setting aside notification under Section 6 of the Act and upholding notification under Section 4 of the Act, liberty was granted to the State government to continue with the acquisition proceedings in accordance with law. Subsequently, award was announced on 28.06.1983. It has been found that the land owners, before the Hon'ble Supreme Court had not filed any objections under Section 5 of the Act nor had challenged the acquisition proceedings at earlier stage and had accepted the amount of compensation. Even the possession of the land was taken by the authorities subsequently. It was also found that there is nothing on record that the land owners, the petitioners before the Hon'ble Supreme Court have filed any application for making any reference under Section 18 of the Act. It was in this background, the Court held that after notification under Section 4 of the Act is published, the application thereafter does not bind the State or the beneficiary under the

acquisition. It was also observed that the purchaser is only entitled to receive compensation. The finding of entitlement to receive compensation arose for the reason that no objections were filed by the land owner after publication of notification under Section 4 of the Act or before announcing the award. The relevant extract from the judgment reads 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* 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.*, 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*.

16. Similarly, in *U.P. Jal Nigam v. Kalra Properties (P) Ltd.*, 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*.]

17. In *Ajay Krishan Shinghal v. Union of India*, *Mahavir v. Rural Institute*, *Gian Chand v. Gopala* and *Meera Sahni v. Lt. Governor of Delhi* 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.*)

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".

Thus, both the judgments does not deal with the issue of statutory bar to publish a notification under Section 6 of the Act. We find that the judgments referred by Mr. Sehgal are not helpful to the arguments raised as the petitioners would have a right to dispute notification under Section 6 of the Act on the ground that the same was published after the period prescribed. The purchaser is not disputing the publication of notification under Section 4 of the Act on the grounds which were available to the original land owner. In the light of the judgments referred, the petitioner as purchaser could not challenge the notification under Section 4 of the Act but could challenge the notification under Section 6 of the Act on the ground that the same was published after the statutory period. It may be noticed that the original land owner as well as present petitioner - the subsequent purchaser were party in the earlier Writ petition No. 3628 of 2006 challenging the notification under Section 4 of the Act by invoking the urgency provisions.

In respect to notification dated 25.11.2011, the land is stated to be acquired for integrated complex for industrial, institutional, commercial, recreational and other public utilities in the villages by Haryana State Industrial Infrastructure Development Corporation.

Mr. Sehgal, learned counsel for the Corporation states that the purpose of acquisition of land is wide, which includes the purpose of industrial housing. The Corporation shall use the land, ear marked for the development of residential purposes only, for the purpose of industrial housing for the workers and not for commercial or any other purpose. Learned counsel for the State has

filed affidavit dated 05.08.2014 that the land, subject matter of acquisition vide notification dated 25.11.2011 shall be used only in conformity with the development plan of the area. In view of the said fact, we find that the challenge in the notification dated 25.11.2011 is not tenable.

Consequently, the writ petition is partly allowed by setting aside the notification dated 13.03.2012 published on 16.03.2012 on the ground that the same is beyond the period prescribed under Section 6 of the Act while upholding the notification dated 25.11.2011.

Writ petition stands disposed of accordingly.

(Hemant Gupta)
Judge

(Lisa Gill)
Judge

March 31, 2015
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