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HIGH COURT OF CHHATTISGARH, BILASPUR**Judgment Reserved on: 16/11/2016****Judgment Delivered on : 22/11/2016****Writ Appeal No. 234 of 2016**

Amar Kumar Agrawal S/o Late Shri Arun Kumar Agrawal, Aged about 31 years, R/o Mahuapali Road, Kharsiya, Tehsil Kharsia, Thana Kharsiya, District Raigarh, Chhattisgarh.

---- Appellant**Versus**

1. State of Chhattisgarh, Through Secretary, Department of Commerce and Industries, Mahanadi Bhawan, Mantralaya New Raipur, Chhattisgarh.
2. Director, Directorate of Industries, Udyog Bhawan, Ring Road No. 1, Telibandha, Raipur Chhattisgarh.
3. Collector, Raigarh, District Raigarh, Chhattisgarh.
4. Sub Divisional Officer (Revenue) Gharghoda, District Raigarh, Chhattisgarh.
5. M/s. T.R.N. Energy Pvt. Ltd. A Company incorporated under the Companies Act, 1956 having its office at 4732/22, Ground Floor, Prakashdeep Building, Ansari Road, Dariyaganj, New Delhi, 110002, Through its Director.
6. District Registrar, Raigarh, Registry Office, Raigarh, Chhattisgarh.
7. Deputy Registrar, Kharsia, District Raigarh, Chhattisgarh.

---- Respondents**Writ Appeal No. 237 of 2016**

Amar Kumar Agrawal S/o Late Shri Arun Kumar Agrawal, Aged About 31 Years R/o Mahuapali Road, Kharsiya, Tehsil Kharsia, Thana Kharsiya, District Raigarh, (Chhattisgarh)

---- Appellant**Versus**

1. State of Chhattisgarh Through Secretary, Department Of Commerce And Industries, Mahanadi Bhawan, Mantralaya, New Raipur, (Chhattisgarh)
2. Director, Directorate Of Industries, Udyog Bhawan, Ring Road No.1, Telibandha, Raipur, (Chhattisgarh)

3. Collector, Raigarh, District Raigarh (Chhattisgarh)
4. Sub Divisional Officer (Revenue), Gharghoda, District Raigarh, (Chhattisgarh)
5. M/s T. R. N. Energy Pvt. Ltd., A Company Incorporated Under The Companies Act, 1956 Having Its Office At 4732/22, Ground Floor, Prakashdeep Building, Ansari Road, Dariyaganj, New Delhi 110002, Through Its Director.
6. District Registrar, Raigarh, Registry Office, Raigarh, (Chhattisgarh)
7. Deputy Registrar, Kharsia, District Raigarh, (Chhattisgarh)
8. Shri Ashok Agrawal, Then Collector Of Raigarh, Presently Posted As Commissioner, SLJAG Durg, District Durg, (Chhattisgarh)
9. Shri Mukesh Bansal, Then Collector, Raigarh, Presently Posted As Collector, Rajnandgaon, District Rajnandgaon, (Chhattisgarh)
10. Shri C. Tigga, Then Deputy Registrar Kharsia (Retd.), R/o Shailendra Nagar, Bank Colony, Raigarh, Tehsil & District Raigarh (Chhattisgarh)
11. Central Bureau of Investigation, Through Its Director, Plot No. 5-B, C G O Complex, Lodhi Road, New Delhi 110003

---- Respondents

For Appellant	:	Shri M.L.Sharma, Advocate with Shri Harsh Wardhan, Advocate.
For Respondent/State:		Shri Yashwant Singh Thakur, Additional Advocate General.

Hon'ble Shri Deepak Gupta, Chief Justice
Hon'ble Shri Sanjay Agrawal, J.

C.A.V. Judgment

Per Deepak Gupta, Chief Justice

1. Both the above writ appeals are being disposed of by a common judgment since the factual matrix of both the cases is identical. However, separate reliefs had been claimed in Writ Petition (C) No. 469 of 2016 and Writ Petition (C) No. 241 of 2016 which gave rise to the present appeals.

2. Writ Appeal No. 234 of 2016 is directed against the judgment dated 19.02.2016 passed by the learned Single Judge whereby he has dismissed Writ Petition (C) No. 469 of 2016 and Writ Appeal No. 237 of 2016 is directed against the judgment dated 09.02.2016 whereby the learned Single Judge has dismissed Writ Petition (C) No. 241 of 2016 filed by the Appellant/Petitioner.

3. Briefly stated facts of the case are that Late Arun Kumar Agrawal, father of the Appellant/Petitioner executed a sale deed in favour of Respondent No. 5-M/s. T.R.N.Energy Pvt. Ltd. whereby he sold his land admeasuring 4.534 hectares and trees thereupon for a sum of Rs.11,25,700/-. This sale deed was executed on 30.03.2010. On 19.03.2010, the State of Chhattisgarh issued a notification under para 4.1.5 of Ideal Rehabilitation Policy - 07 (as amended) in case of Land acquisition for Commercial and Industrial projects. The notification reads as follows:

"Raipur, the 19th March, 2010

NOTIFICATION

No. F-7-97/Rehabilitation Policy/2007 - Para 4.1.5 of Ideal Rehabilitation Policy - 07 (as amended) in case of Land acquisition for Commercial and Industrial projects regarding compensation to Land owners, following changes have been made: -

S.No.	Provisions of Para 4.1.5 (a) of Amendment in Provision of Para Ideal Rehabilitation Policy-07 as (amended)	4.1.5(a) of Ideal Rehabilitation Policy -07 as (amended)
1	Provision for barren land Rs. 50 Thousand per acre	In the provision for barren land Rs. 50 Thousand per acre replace 6 Lakh per acre
2	Provision for Non Irrigated (Single Crop) Rs. 75 Thousand per acre	In the provision of Non Irrigated (Single Crop) Rs. 75 Thousand Per acre replace 8 Lakh per acre.
3	Provisions for Irrigated (Double Crop) Rs. 1 Lakh per acre.	In the provision for Irrigated (Double Crop) Rs. 1 Lakh per acre replace 10 Lakh per acre.

By Order and in the name of Governor of Chhattisgarh
Anil Tuteja, Joint Secretary"

4. After issuance of this notification, Late Arun Kumar Agrawal made a representation to the Collector, Raigarh on 14.10.2010 claiming that he should also be paid compensation in terms of the notification referred to above. No orders were passed on the said representation and thereafter, the present Appellant/Petitioner who is the son of Late Arun Kumar Agrawal, filed Writ Petition (C) No. 1682 of 2013, which was disposed of on 31.10.2013 with a direction to the Collector, Raigarh to decide pending representation of the Petitioner. The Petitioner made another representation on 06.01.2014 and on 16.10.2014. The Collector passed an order rejecting the representation basically on the ground that the Petitioner had voluntarily sold his land. It was also mentioned that the father of the Petitioner had purchased this land from the original land owner on 02.08.2004 for a sum of Rs. 2,35,200/-. After six years, he had sold the land for a sum of Rs. 11,25,700/- i.e. more than four times at the rate on which he had purchased this land. The Collector held that there is no fraud and that the notification in question is not applicable since this is not a case of acquisition but voluntary transfer of land.

5. The Appellant/Petitioner filed two writ petitions viz. Writ Petition (C) No. 469 of 2016 and Writ Petition (C) No. 241 of 2016. In one writ petition, i.e. Writ Petition (C) No. 241 of 2016, the main relief sought for by the Appellant/Petitioner was quashing of the order dated 16.10.2014 passed by the Collector, Raigarh, whereby his representation was rejected and also for quashing of the sale deed dated 30.03.2010 executed by his father being violative of the Rehabilitation Policy. In the second writ petition, i.e. Writ Petition (C) No. 469 of 2016, the Appellant/Petitioner had prayed for a direction that the Rehabilitation Policy be applied in his case also and to declare the sale deed dated 30.03.2010 as illegal. Both these writ petitions were dismissed.

6. The reasons given in the judgments passed in both the writ petitions are almost similar. We may make reference to the reasons given in one petition i.e. Writ Petition (C) No. 241 of 2016 which reads as follows:

"3. This petition is as frivolous as it could be. The father of the petitioner sold some land to respondent No. 5. There is nothing on record to show that the father of the petitioner ever raised any dispute in any Court of law seeking decree of declaration that the sale deed is illegal, void and inoperative on any allegation of fraud, coercion or misrepresentation.

Overenthusiastic petitioner, as he appears to be, has filed this petition to seek direction against the State authorities and the purchaser for payment of money more than what has already been paid by the purchaser to petitioner's father.

Present is a case which arises out of a transaction of sale of land by the father of the petitioner and Respondent No. 5. Rates were fixed by the State in respect of acquisition of land. It was for the seller to be vigilant of his own rights and to decide as to on what rate, he has to sell the land. These issues cannot be gone into in the writ petition.

4. Instead of taking civil remedy, if at all, it is available to the petitioner, seeking a declaration that the sale deed is null and void, on any of the grounds that may be available to him under the law, this writ petition has been filed. The petition is completely misconceived and is therefore dismissed."

The present appeals have been filed challenging the aforesaid two orders dated 19.02.2016 and 09.02.2016.

7. Shri M.L.Sharma, learned counsel appearing for the Appellant/Petitioner submits that the notification in question is applicable not only to the Government but also to the private parties. He further submits that as per this notification, the Government has fixed a minimum price for the land and no person can be deprived of his land at a price lesser than the one prescribed in the notification. According to Shri Sharma, there is violation of Section 30 of the Stamp Act since the stamp duty should have been assessed by taking the minimum price of the land to be the one reflected in the notification dated 19.03.2010.

8. We find no merit in the contention raised by Shri Sharma. The notification which we have quoted hereinabove clearly shows that it is

applicable only when the land is acquired and there is a compulsory acquisition of the land. A case of compulsory acquisition is totally different from a voluntary sale. Compulsory acquisition is resorted to when the land owner is not willing to sell his land. In such a case, the land may have to be purchased / acquired at a price more than the prevailing market rate because the owner has to be compensated for the compulsory nature of the acquisition. The notification in question clearly lays down that it has been issued in terms of the Ideal Rehabilitation Policy framed with the purpose of helping those citizens whose lands are compulsorily acquired. We are clearly of the view that this notification is not applicable in the case of voluntary transfers.

9. This is a case where a person who acquired his land for a sum of Rs. 2,35,200/- has made 400% profit in less than six years. It is not the case of the Petitioner that his father, Late Arun Kumar Agrawal was an innocent tribal. He was a businessman and knew how to look after his affairs. He entered into a voluntary sale deed selling his land for a particular price. Nobody forced him to sell his land. He of his own volition had sold the land at a price mutually agreed to between the parties. Now, his legal heirs cannot be permitted to urge that they should get a higher price on the basis of the government notification which is not applicable in the facts of the case. Another aspect of the matter is that though the sale deed is challenged and higher compensation is claimed, for reasons best known to the Appellant/Petitioner, he has neither named the other legal heirs of Late Arun Kumar Agrawal nor arrayed them as parties.

10. With regard to challenge to applicability of the notification, no arguments were raised by Shri Sharma. However, since this ground was raised in the petition, we are dealing with the same. We are clearly of the view that this prayer is totally misconceived. The Government cannot frame

policies when two individuals contract with each other. It is the right of an individual to sell his or her property to another and normally, no fetters can be placed on the same. A person may in case of need, sell his property for less than the market price and another person may not sell his property even for a very high price because of his emotional attachment to the property. This aspect cannot be governed by policy. The notification on the face of it is not attracted in case of private transactions.

11. Be that as it may, we are in full agreement with the findings of the learned Single Judge that these are totally frivolous petitions. We therefore dismiss these appeals with costs assessed at Rs. 10,000/-.

Sd/-

(Deepak Gupta)
CHIEF JUSTICE

Sd/-

(Sanjay Agrawal)
JUDGE