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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :09.07.2019

Coram

The Honourable Mr. Justice M.DHANDAPANI

W.P.No.14724 of 2008 and
M.P.No.2 of 2008

P. Shrikanthan ... Petitioner

vs

1. The State of Tamil Nadu
rep by its Secretary to Government,
Industries Department,
Fort St. George, Chennai - 600 009
2. The District Collector,
Kancheepuram District,
Kancheepuram
3. The Special Thasildar (L.A),
Mahendra World City Developers Ltd.,
Melmaiur, Chengalpattu.
4. M/s Mahindra World City Developers Limited,
(Formerly known as M/s Mahindra Industrial
Park Ltd.,) having its Corporate Office
at Mahindra World City, Natham Sub-Post,
Chengalpet Taluk, Kancheepuram District,
rep by Mr.R. Eswaran
General Manager (Legal)

(R.4 was impleaded as per order of this
Court dated 19.09.2008 in MP No.3/2008)

.... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari to call for the records pertaining to the proceedings of the first respondent vide Notification in G.O.Ms.No.1 Industries (MIE 2) dated 03.01.2007 published in Tamil Nadu Gazette No.4, Part II-Sec.2 dated 31.01.2007 and the notice of the 3rd respondent in R.C.No.97/99-A dated 12.03.2007 and proceedings in Na.Ka.No.97/99A dated 09.04.2008 and quash the same.

For Petitioner : Mr.Sankar Ramasamy
For R.1 to R.3 : Mr.M. Elumalai
Government Advocate
For R.4 : Mr.R. Bharathkumar



ORDER

The petitioner has filed the present writ petitioner praying to issue a Writ of Certiorari to call for the records pertaining to the proceedings of the first respondent vide Notification in G.O.Ms.No.1 Industries (MIE 2) dated 03.01.2007 published in Tamil Nadu Gazette No.4, Part II- Sec.2 dated 31.01.2007 and the notice of the 3rd respondent in R.C.No.97/99-A dated 12.03.2007 and proceedings in Na.Ka.No.97/99A dated 09.04.2008 and quash the same.

2. The case of the petitioner is that he is the owner of the land and he purchased the land on 24.03.2006 from Mrs.Saraswathi and others, who are the original owners of the property. The petitioner is not aware of earlier land acquisition proceedings, which was of the year 1997 and however, the petitioner came to know only in the year 2007. Thereafter, the petitioner filed a Writ Petition, challenging the Notifications issued under Section 3 (1) of the Tamil Nadu Land Acquisition Act on 31.01.2007, 3 (2) of the Act and the possession Notice issued on 12.03.2007.

3. Learned counsel for the petitioner would submit that Notice under Section 3(1) was issued in the name of original owner, however, Notice under Section 4(2) of the Act was issued in favour of the petitioner. The petitioner appeared before the authority and explained them, however, the authorities did not issue any notice either under Section 3(2) or 3(1) of the Act, but they have chosen to issue Notice under Section 4(2), which is unsustainable and all proceedings were initiated only against the original owners and not against the petitioner and the petitioner is still in possession and the authorities had not taken over the possession.

4. Per contra, the learned counsel for the respondents would submit that initially the Government issued G.O.Ns.No.88 Industries (MID-1) Department on 11.06.1997 approving the proposal of formation of Auto-ancillary Park project and thereafter, on 24.09.1998, the Department of Industry accorded administrative sanction vide G.O.Ms.No.630 dated 24.09.1998. Thereafter, Notification under Section 4(1) of the Act was published in the newspaper on 20.12.2000 and the same was published on 11.01.2001 and 12.01.2001. Thereafter, Notice under Section 5(A) was sent to the original owners.

5. In the meanwhile, new Act came into force on 21.09.2001. As per Sections 21, 22 and 23 of the Act, the provisions of the Land Acquisition Act, 1894 (Central Act 1 of



1984) shall cease to apply to any land which is required for the purpose specified in Sub-Section (1) of Section 3 and any such land shall be acquired by the Government, only in accordance with the provisions of this Act.

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6. After the new Act came into force, Section 6 Declaration in Tamil Nadu Government Gazette Part was issued on 10.01.2002 and the paper publication was issued on 19.01.2002 and 20.01.2002. Thereafter, as per Section 23(2) of the Tamil Nadu Acquisition of Lands for Industrial Purposes Act, 1997 was approved on 06.12.2004 and the same was published in the Tamil Nadu Government Gazette on 07.12.2004.

7. Thereafter, Notice under Section 3(2) of the New Act was published on 29.12.2004 and 03.01.2005. After publication, Notice under Section 3(1) of the New Act was approved on 03.01.2007 and the Notice under Section 4 (2) of the New Act was served on the original owners as well as the petitioner on 12.03.2007. Upon expiry of the notice under Section 4(2) of the New Act, the Government took possession of the lands on 19.04.2007 and the common area was gifted in favour of the Local Body on 28.03.2012 by way of Registered Gift Deed. The learned counsel further submitted that the petitioner purchased the property on 24.03.2006, however, he filed a Writ Petition before this Court on 23.06.2008, after possession was taken over by the State. Hence the writ petition is not maintainable and when a person purchased a property after issuance of 4(1) Notification, he is not entitled to challenge the Notification and he is entitled to receive only the benefits.

8. In support of his contentions, the learned counsel relied on the following decisions:

- (i) Star Wire (India) Ltd vs State of Haryana and Others
(1996) 11 SCC 698
- (ii) Sneh Prabha (Smt) and Others (1996) 7 SCC 426
- (iii) Banda Development Authority, Banda vs
Moti Lal Agarwal and Others (2011) 5 SCC 394

and accordingly, he prayed for dismissal of the writ petition.

9. Heard both sides and perused the materials available on record.

10. The issue involved in the present case is concerned, whether the petitioner is challenging the land acquisition



proceedings, after taking the possession. The undisputed facts are as follows:

11. Initially, Notification was issued under Sec.4(1) of the Act on 20.12.2000 and thereafter, new Act came into force on 21.09.2001 with Sections 21, 22 and 23 and thereafter, declaration under Section 6 was issued on 10.01.2002. Thereafter, on 06.12.2004 Section 23(2) of Tamil Nadu Land Acquisition of Lands for Industrial Purposes Act, 1997 was approved and accordingly, it was published in Tamil Nadu Government Gazette on 07.12.2004 on 29.12.2004.

12. Thereafter, Notification under Sec.3(1) of the Act was published on 31.01.2007 and for the purpose of taking possession, the authority issued Notice under Section 4(2) of the New Act to the original owners as well as the petitioner. The petitioner received the Notice and filed the objection on 28.04.2008, however, they challenged the proceedings before this Court on 23.06.2008. However, the fact remains the possession of the land was taken on 19.04.2007 and the common area was gifted in favour of the local body and the petitioner approached this Court after possession was taken over by the Government. For better appreciation with regard to the subsequent challenge to the land acquisition proceedings by the subsequent purchaser, he relied the following case laws:

13. In the case of Star Wire (India) Ltd vs State of Haryana and Others reported in (1996) 11 SCC 698, the Apex Court held as follows:

" In this case, admittedly, the petitioner has purchased the property covered by the notification under Section 4(1) after it was published and, therefore, it's title is a void title. It has no right to challenge the acquisition proceedings much less the award. The Division Bench of the High Court has exhaustively reviewed the case law to negate the claim of the petitioner. We do not find any illegality in the judgment of the High Court warranting interference."

14. In the case of Sneh Prabha (Smt) and Others reported in (1996) 7 SCC 426, the Apex Court has held as follows:

" Though at 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



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purchases land after publication of the notification under Section 4 [1], does so at his/her own peril. The object of publication of the notification under Section 4 [1] 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 thereunder. 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[1] 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 [1] was published. By necessary implication, the subsequent purchaser was elbowed out from the policy and became disentitled to the benefit of the Land Policy. "

15. In the case of Banda Development Authority, Banda vs Moti Lal Agarwal and Others reported in (2011) 5 SCC 394, the Apex Court has held as follows:



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38. In the light of the above discussion, we hold that the action of the concerned State authorities to go to the spot and prepare panchnama showing delivery of possession was sufficient for recording a finding that actual possession of the entire acquired land had been taken and handed over to the BDA. The utilization of the major portion of the acquired land for the public purpose for which it was acquired is clearly indicative of the fact that actual possession of the acquired land had been taken by the BDA. Once it is held that possession of the acquired land was handed over to the BDA on 30.6.2001, the view taken by the High Court that the acquisition proceedings had lapsed due to non-compliance of Section 11A cannot be sustained.

16. The very same Notification was challenged before this Court by the subsequent purchaser in W.P.No.2266 of 2006 and the same was dismissed by this Court on 05.12.2018.

17. On perusal of the above decisions, it makes it clear that any alienation of the land after issuance of Notification under Section 4(1) of the Act does not bind the Government and further, in the present case, possession was taken over by the respondents on 19.04.2007 itself, however, the petitioner filed the writ petition before this Court only on 23.06.2008.

18. In the present case, the petitioner did not dispute that the land, in question, is a vacant land and forcible taken possession does not arise. If the acquired land is vacant, the act of the concerned State authority to go to the spot and prepare a panchnama, which will ordinarily be treated as sufficient to constitute taking of possession.

19. In view of the law laid down by the Apex Court, I find no merit in the Writ Petition and hence the writ petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-VI)

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Sub Assistant Registrar

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To

1. The Secretary to Government,
State of Tamil Nadu
Industries Department,
Fort St. George, Chennai - 600 009

2. The District Collector,
Kancheepuram District,
Kancheepuram

3. The Special Thasildar (L.A),
Mahendra World City Developers Ltd.,
Melmaiur, Chengalpattu. Industries Department,
Fort St. George, Chennai - 600 009

+1cc to Mr.R.Bharath Kumar, Advocate, S.R.No. 57929
+1cc to Mr.Sankar Ramasamy, Advocate, S.R.No. 57507
+1cc to the Government Pleader, S.R.No. 59232

W.P.No.14724 of 2008

PPA (CO)
GN (22/08/2019)