

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

**CWP No. 10645 of 2018
Date of decision: 11.11.2020**

Ram Prasad Yadav

... Petitioner

Versus

State of Haryana and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE RAVI SHANKER JHA, CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE**

**Present: Mr. Ajay Yadav, Advocate,
for the petitioner.**

Mr. Ankur Mittal, Addl. A.G., Haryana.

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(The aforesaid presence is being recorded through video conferencing since the proceedings are being conducted in virtual Court).

RAVI SHANKER JHA, CHIEF JUSTICE

1. This petition has been filed for issuance of writ in the nature of mandamus/certiorari for quashing the impugned order dated 13.10.2017 (Annexure P-15) and all subsequent proceedings and the action of the respondent authorities in not releasing the land in question by claiming the same to be against the provisions of Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (herein after to be referred as the Act of 2013) and further urging that the acquisition of land in their case stands lapsed by virtue of Section 24(2) of the Act of 2013, as the physical possession of the land is with him and the compensation has neither been paid to him nor deposited in the Ld. Court.

2. At the heart of the present petition, the issue for consideration before us is with regard to the right of the subsequent purchaser to question the validity of the acquisition proceedings and claiming lapse of the acquisition proceedings in view of section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.
3. The brief factual matrix, necessary for the purpose of deciding the present petition is that the Government of Haryana through Urban Estates Department issued notification u/s 4 of the Land Acquisition Act, 1894 on 2nd August, 1989 thereby declaring its intention to acquire the land including the land of the petitioner comprising in Khasra no. 50/14 measuring 100 square yards situated in revenue estate of Village Mewla Maharajpur, District Faridabad, Haryana for the public purpose namely for the development and utilization of land as residential and commercial in Sector 45, Faridabad. The notification under section 4 was followed by the declaration dated 01.08.1990 issued u/s 6 of the Land Acquisition Act, 1894 and subsequently the award was announced on 07.10.1991.
4. The petitioner in order to establish the ownership qua the aforesaid land has annexed the Jamabandi of the year 2003-04, however, at the same time the perusal of the pleadings in the writ petition shows that admittedly the petitioner purchased the aforesaid land on 12.11.1990 i.e. subsequent to the issuance of notification under Section 4 and declaration under Section 6 of the Land Acquisition Act, 1894. The relevant para from the petition is reproduced hereinbelow:-

*"5. It is relevant to mention that earlier the land was in the name of Shri Chander Prakash who sold the same to Sh. Tilak Raj. **Subsequently, Sh. Tilak Raj sold the land to the petitioner on dated 12.11.1990 on payment in the small instalment paid to him from the period of 1988 to 1989 due to financial crisis...**"*

(emphasis supplied).

5. The petitioner has sought the declaration to the effect that the acquisition proceedings qua the subject land stands lapsed as the physical possession

of the land is with the petitioner and the compensation has not been paid in accordance with provisions of section 31 of the Land Acquisition Act, 1894. The petitioner had earlier approached this Court seeking similar relief in writ petition bearing CWP No. 15321 of 2015 titled as Uma Lal Yadav and others Vs. State of Haryana and others which was disposed of vide order dated 29.07.2015 thereby directing the authority to decide the representation filed by the petitioner if any, by passing a speaking order. Pursuant to which the petitioner had filed a comprehensive representation for releasing the land under the provisions of Section 24 (2) of the Act of 2013.

6. In view thereof, the Zonal Committee was formed to decide the representation of the petitioner. The Zonal Committee recommended not to release the land by observing that the possession of the land was handed over to Estate Officer HUDA, Faridabad vide rapat rojnamcha No. 66 dated 07.10.1991. It was further observed that the petitioner purchased the land after the notification issued u/s 4 of the Land Acquisition Act and that as per the approved revised layout plan of Sector 45, the land falls within the alignment of sector dividing road of Sector 45 and 46 and is partly falling within District Centre Site, Sector – 45, Faridabad. Consequently, the claim of the petitioner was rejected by Chairman-cum-Zonal Administrator, HUDA by passing a speaking order dated 13.10.2017. The said speaking order has also been assailed by the petitioner in the present writ petition.
7. While maintaining his challenge to the acquisition proceedings, the petitioner has relied upon the judgment passed by the Hon'ble Supreme Court in ***Pune Municipal Corporation and Anr. V. Harakchand Misrimal Solanki & Ors. reported as (2014) 3 SCC 183*** and further on ***Govt. of NCT of Delhi v. Manav Dharam Trust (2017) AIR SC 2450*** to say that though the subsequent purchaser cannot challenge the acquisition proceedings, however he is entitled to file a case for a declaration that the land acquisition proceedings have lapsed by virtue of operation of section 24(2) of the Act of 2013.

8. Since, the Hon'ble Supreme Court was seized of the matter with regard to the interpretation of section 24(2) of the Act of 2013, the present petition was kept pending awaiting the decision of the Hon'ble Apex Court, which has now been decided by the Hon'ble 5-Judge Bench of the Hon'ble Supreme Court of India in the case titled as ***Indore Development Authority v. Manoharlal and others reported as AIR 2020 SC 1496***. Accordingly, now the present petition is listed for the final adjudication.

9. In view of the facts and circumstances narrated hereinabove, the issue in question before us is three fold i.e.

- (1) *Whether the person who has paid the consideration before issuance of notification u/s 4, however, the sale deed was executed after issuance of Section 4 notification can be considered as a 'subsequent purchaser'?*
- (2) *Whether the subsequent purchaser has locus standi to claim the lapse of acquisition proceedings u/s 24 (2) of the Act of 2013?*
- (3) *Whether the acquisition proceedings in the present case stands lapsed under Section 24(2) of the Act of 2013?*

10. Mr. Ankur Mittal, Additional Advocate General Haryana while praying for dismissal of the petition submits that the term '***subsequent purchaser***' does not find mention in any of the provisions of the Land Acquisition Act, 1894 or even in the Act of 2013, however the same has been coined over the time in various judicial pronouncements to refer to the person who purchases the land after the initiation of the acquisition proceedings i.e. post issuance of notification under section 4 of the Land Acquisition Act, 1894. He further argued that even if the petitioner is claiming to have paid the sale consideration prior to issuance of notification under section 4 of the 1894 Act, but since the sale deed had been executed post the issuance of notification under section 4 of 1894 Act, hence undoubtedly the status of the petitioner would be of a subsequent purchaser. In this regard, he has placed reliance on the judgment of the Hon'ble Supreme Court in ***Suraj Lamp and Industries Pvt. Ltd. Through Director v. State of Haryana and Anr. (2012) 1 SCC 656***. As far as the reliance of the petitioner on the judgment of the Hon'ble Supreme Court of India in

Manav Dharam Trust (Supra), Mr. Mittal has contended that the said judgment was subsequently tested before the Hon'ble Supreme Court in ***Shiv Kumar and anr. Vs. Union of India and ors. Reported as AIR 2019 (SC) 5374***, whereby Hon'ble three judges bench has held that the judgment of ***Manav Dharam Trust (Supra)*** to not to be a good law. Thus, he prayed for dismissal of the present petition on this ground alone. However, he has further taken us to the judgment passed by the Hon'ble Constitution Bench of the Hon'ble Supreme Court in ***Indore Development Authority v, Manoharlal (Supra)*** to contend that after examining each and every aspect of the matter, the Hon'ble Supreme Court has categorically clarified the field of section 24(2) by giving guidelines in Para 363 of the judgment. To sum up, he argued that to claim lapsing under section 24(2) of 2013 Act, both the contingencies are required to be fulfilled, without which, there cannot be any lapsing. Mr. Mittal has further relied upon the judgment passed by this Court in ***Daya Ram and others v. State of Haryana and others CWP no. 18718 of 2016*** to contend that one of the category framed by this Court in the said judgment was the lapsing of acquisition being sought by subsequent purchaser, wherein this Court after examining the issue in question has dismissed the writ petitions filed by the subsequent purchaser seeking lapsing of acquisition. Admittedly in the present case, the petitioner/ his vendor has chosen to not to take the compensation inspite of the fact, it was available with the LAC and duly tendered but leaving this as well, will not be of any help to the petitioner as admittedly as recorded in the speaking order the panchnama was drawn by way of recording rapat roznamcha, hence, even if the petitioner is claiming to continue with the possession, his status at best would be of a trespasser in terms of para 244 and 245 of the judgment in ***Indore Development Authority (supra)***.

11. In view of the respective submissions made, we have gone through the pleadings made in the present petition as well as the judgments relied upon by the parties. The judgments passed by the Hon'ble Supreme Court in ***Shiv Kumar (supra)*** and ***Indore Development Authority (supra)*** were thoroughly examined. In the matter at hand, the petitioner has admittedly pleaded that he purchased the land on 12.11.1990 i.e. post the

issuance of notification under section 4 of the Act of 1894, however claimed to have paid the sale consideration from 1988 to 1989 i.e. before the issuance of notification under section 4. Though it is the admitted position, however we feel appropriate to analyse as to whether any payment of consideration qua the land, before the issuance of notification under section 4, would in any manner change the status of the vendee as the subsequent purchaser, if the sale deed was in fact executed post issuance of the notification under section 4.

12. The valid mode of transferring the immovable property by way of sale is only by executing a deed of conveyance i.e. sale deed which is duly stamped and registered, in absence of which no right, title or interest in the immovable property can be transferred. Therefore, the right or title in the immovable property can only vest in the vendee after the sale deed is executed, and no other incidence can confer the right in the vendee. This aspect was duly considered by the Hon'ble 3-judge bench in ***Suraj Lamp and Industries Pvt. Ltd. (supra)***, wherein the Hon'ble Court while considering the effect of transactions based on Agreement to sell, General Power of Attorney and Will, hold that,

'...16. We therefore reiterate that immovable property can be legally and lawfully transferred/conveyed only by a registered deed of conveyance. Transactions of the nature of 'GPA sales' or 'SA/GPA/WILL transfers' do not convey title and do not amount to transfer, nor can they be recognised or valid mode of transfer of immoveable property. The courts will not treat such transactions as completed or concluded transfers or as conveyances as they neither convey title nor create any interest in an immovable property. They cannot be recognised as deeds of title, except to the limited extent of section 53A of the Transfer of Property Act. Such transactions cannot be relied upon or made the basis for mutations in Municipal or Revenue Records. What is stated above will apply not only to deeds of conveyance in regard to freehold property but also to transfer of leasehold property. A lease can be validly transferred only under a registered Assignment of Lease. It is time that an end is put to the pernicious practice of SA/GPA/WILL transactions known as GPA sales....'

Therefore, once the sale deed is the only way by which the title is conferred upon the vendee, therefore the payment of consideration does not confer any title in the immovable property unless a valid sale deed is executed. Be it as may be, the conclusion that can be safely drawn is that

the payment of consideration is not the touchstone to see whether the vendee is a 'subsequent purchaser' or not, rather the date of execution of sale deed is relevant for ascertaining whether the land has been purchased prior or post to the issuance of notification under section 4 of the Land Acquisition Act, 1894. Therefore, since the petitioner has purchased the claimed land on 12.11.1990, i.e. after section 4 notification was issued, therefore we have no hesitation to hold that the petitioner is a 'subsequent purchaser'.

13. A similar controversy came to be decided by the Hon'ble Supreme Court of India in *Gian Chand Vs. Gopala cited as 1995 (2) SCC 528*, wherein the Hon'ble Court held as follows:-

'....2. The only question for consideration is whether the appellant is entitled to obtain refund of earnest money. One of the terms of the contract, admittedly entered into between the parties, is that in the event of acquisition of land by the Government for a public purpose, the respondent "shall return the earnest money without interest." Admittedly, since the notification under Section 4(1) of the Land Acquisition Act was already published, the question arises whether the appellant could get a sale deed executed and in its absence whether he is entitled to obtain refund of earnest money paid under the agreement. On publication of notification under section 4(1) of the Act, though it is not conclusive till declaration under section 6 was published, the owner of the land is interdicted to deal with the land as a free agent and to create encumbrances thereon or to deal with the land in any manner detrimental for public purpose. Therefore, though notification under section 4(1) is not conclusive, the owner of the land is prevented from encumbering the land in that such encumbrance does not bind the Government. If ultimately, declaration under section 6 is published and acquisition is proceeded with, it would be conclusive evidence of public purpose and the Government is entitled to have the land acquired and take possession free from all encumbrances Any sale transaction or encumbrances created by the owner after the publication of notification under section 4(1) would therefore be void and does not bind the State. In this perspective, when 'the necessary conclusion is that the agreement of sale stands frustrated, the question of readiness and willingness on the part of the vendor or vendee does not arise. The appellate court wrongly held that the appellant was not ready and willing to perform his part of the contract. In the face of the notification how the appellant could get a valid title ? Any attempt on his part would be futile exercise and avoidable expenditure....'

14. After having been held that the petitioner in the present case is a subsequent purchaser, it is relevant to examine as to whether any alienation of land after the publication of the notification u/s 4 of the Act of 1894 bind the State Government or not and if not then what legal rights accrues in favour of a person who purchases the land post issuance of notification under Section 4 of the Land Acquisition Act, 1894.
15. This issue is no more res integra as the Hon'ble Supreme Court in catena of judgments has dealt with this issue and has consistently led down the proposition of law that transaction after the publication of notification u/s 4 is void and does not bind the State in any manner.
16. In this regard, it is relevant to first analyse the effect of issuance of notification u/s 4 of the Land Acquisition Act, 1894. The purpose of the publication of the notification is two-fold i.e. First to ensure that adequate publicity is given so that land owner and persons interested will have an opportunity to file their objections u/s 5-A of the Act and second is to put the land owners/occupants on notice that Government officers will be entering upon the properties for carrying on the activities enumerated under sub section (2) of the Section 4 of Act of 1894. Though the notification u/s 4 is not a conclusive one, however, it aims to prevent the owner from encumbering the land in any manner and in eventuality any such encumbrance is created, it does not bind the Government. This proposition further gets substantiated from the fact that if ultimately the Government proceeds to acquire the land and issue the declaration u/s 6 of the Land Acquisition Act, 1894, the same is a conclusive evidence of public purpose and consequently, the Government becomes entitled to acquire the land and take possession free from all encumbrances thereafter. Therefore, any transaction after the publication of notification u/s 4 has no relevance in the eyes of law.
17. In ***Mahavir and another etc Vs. The Rural Institute, Amrawati and another. Etc. 1995 (5) SCC 335***, the Hon'ble Supreme Court categorically held that the sales made after the publication of notification u/s 4 (1) are void sales and the State is not bound by such a sale effected by the owner.

Further once the possession of the land is taken by the government against the original owner, title of the original owner stands extinguished and by the operation of Section 16 of the Land Acquisition Act, 1894, the State acquires the right, title and interest in the property free from all encumbrances. The relevant para from the judgment is reproduced hereinbelow:-

*'.....Admittedly, notification under Section 4(1) of the Land Acquisition Act (for short, 'the Act') was published on January 29, 1957 and thereafter the owner sold the properties to the petitioners on June 11, 1957 and August 22, 1958. Declaration under Section 6 was published on August 14, 1958. **Thus, it could be seen that the sales made after the publication of the notification under Section 4(1) are void sales and the State is not bound by such a sale effected by the owner.** Admittedly, the notice under Section 9 and 10 September 23, 1958 and award was made on October 9, 1959 and possession was taken on November 18, 1959. Thus, the acquisition was complete. The possession of the Government is complete as against the original owner and title of the original owner stood extinguished and by operation of Section 16 the State acquires the right, title and interest in the property free from all encumbrances. **So any encumbrance made by the owner after notification under Section 4(1) was published does not bind the State. Possession would be taken through the usual mode of drafting a panchanama by the officer and signed by the witness. It is complete and conclusive...**'*

18. *In U.P. Jal Nigam, Lucknow through its Chairman and another Vs. M/s Kalra Properties (P) Ltd. Lucknow and others cited as 1996 (3) SCC 124*, the respondent i.e. M/s Kalra Properties (P) Ltd sought to challenge the validity of the notifications qua which the land was acquired, however, the Hon'ble Supreme Court negated the challenge by holding that since respondent purchased the land after the notification u/s 4 was published and thus, sale is void against the State and consequently, he has no right to challenge the notification or irregularity in taking possession of the land, being a subsequent purchaser. The operative part of the judgment qua the said proposition is referred hereinbelow:-

'...It is settled law that after the notification under Section 4 (1) is published in the Gazette any encumbrance by the owner does not bind the Government and the purchaser does not acquire any title to the property. In this case, notification under Section 4 (1) was published on march 24, 1973, possession of the land admittedly was taken on July 5, 1973 and pumping station

house was constructed. No doubt, declaration under Section 6 was published later on July 8, 1973, Admittedly power under Section 17 (4) was exercised dispensing with the enquiry under Section 5A and on service of the notice under Section 9 possession was taken, since urgency was acute, viz., pumping station house was to be constructed to drain out flood water. Consequently, the land stood vested in the State under Section 17 (2) free from all encumbrances. It is further settled law that once possession is taken, by operation of Section 17 (2), the land vests in the State free from all encumbrances unless a notification under Section 48 (1) is published in the Gazette withdrawing from the acquisition. Section 11A, as amended by Act 68 of 1984, therefore, does not apply and the acquisition does not lapse. The notification under Section 4 (1) and the declaration under Section 6, therefore, remain valid. There is no other provision under the Act to have the acquired land divested, unless, as stated earlier, notification under Section 48 (1) was published and the possession are surrendered pursuant thereto. That apart, since M/s. Kalra Properties, respondent and purchased the land after the notification under Section 4 (1) was published, its sale is void against the State and it acquired no right, title or interest in the land. Consequently, it is settled law that it cannot challenge the validity of the notification or the regularity in taking possession of the land before publication of the declaration under Section 6 was published....'

It is relevant to mention here that while holding that the subsequent purchaser cannot lay any challenge to the acquisition proceedings, the Hon'ble Court also observed that at the best, the person can claim the compensation subject to the provisions of the Act. The relevant para is quoted herein below:

'...4. The next question is whether the respondent is entitled to compensation and, if so, from what date and at what rate ? The original owner has the right to the compensation under Section 23 (1) of the Act. Consequently, though the respondent acquired no title to the land, at best he would be entitled to step into the shoes of the owner and claim payment of the compensation, but according to the provisions of the Act. It is settled law that the price prevailing as on the date of the publication of the notification under Section 4 (1) is the price to which the owner or person who has an interest in the land is entitled to. Therefore, the purchaser as a person interested in the compensation, since he steps into the shoes of erstwhile owner, is entitled to claim compensation....'

19. In ***Sneh Prabha (Smt) and others Vs. State of Uttar Pradesh and others*** 1996 (7) SCC 426, the Hon'ble Supreme Court while adjudicating upon the issue as to whether the benefits under the land policy for allotment of

the alternative site in lieu of the acquired land can be conferred upon a person who purchased the land after the publication of notification for acquisition of land under Section 4 (1) of the Act of 1894; held that any alienation of land after issuance of notification u/s 4 does not bind the Government or the beneficiary under the acquisition. The right of the subsequent purchaser would be subject to the provisions of the act or to receive the compensation of the land and as far as the entitlement to get alternative site is concerned, the same is not available to the subsequent purchaser. The relevant para of the judgment is reproduced hereinbelow:-

'...5. Thought 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 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 authorises 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 stands 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 acquired 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 v. Shivkumar Bhargava, (1995) 6 JT (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....'

20. Following the ratio laid down in ***U.P. Jal Nigam, Lucknow (supra)*** and ***Smt. Sneh Prabha (supra)***, the Hon'ble Court in ***M/s Star Wire (India) Limited Vs. The State of Haryana and others cited as 1996(11) SCC 698*** dismissed the writ petition challenging the acquisition proceedings on the ground that the petitioner purchased the property covered by the

notification u/s 4 (1) after it was published and therefore, its title is a void tile and has no right to challenge the acquisition proceedings much less the award. The said proposition of law was also followed in ***Ajay Kishan Shinghal & others V. Union of India reported in 1996 10 SCC 721*** and further was reiterated by the Hon'ble Supreme Court in ***Meera Sahni Vs. Lt. Governor of Delhi and others 2008 (9) SCC 177*** to hold that the subsequent purchaser cannot challenge the acquisition proceedings and he would only be entitled to get the compensation.

21. The similar issue was dealt by the Hon'ble Supreme Court in ***V. Chandrasekaran and Anr. Vs. Administrative Officer and ors. 2012(12) SCC 133*** wherein the Hon'ble Court held that the person who purchases land subsequent to the issuance of Section 4 notification is not competent to challenge the validity of the acquisition proceedings on any ground whatsoever, as the sale deed executed in his favour does not confer upon him any title. The Hon'ble Court further held that at the most the subsequent purchaser can claim the compensation on the basis of his vendor's title. The discussion made therein is reproduced hereinbelow:-

'...6. 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 Pandit Leela Ram v. Union of India, AIR 1975 SC 2112, 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 Uttar Pradesh, AIR 1996 SC 540, 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. Shri Shiv Kumar Bhargava & Ors., JT 1995(2) R.R.R. 308 : (1995) 6 SC 274.

7. Similarly, in U.P. Jal Nigam v. M/s. Kalra Properties Pvt. Ltd., AIR 1996 SC 1170, 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 & Ors., (1996) 11 SCC 698**).*

*8. In **Ajay Kishan Singhal v. Union of India, 1997(1) S.C.T. 359 ;Mahavir &Anr. v. Rural Institute, Amravati &Anr., (1995) 5 SCC 335; Gian Chand v. Gopala &Ors., 1995(2) R.R.R. 70 : (1995) 2 SCC 528; and Meera Sahni v. Lieutenant Governor of Delhi & Ors., 2008(5) R.A.J. 172 : (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., 2011(7) R.C.R.(Civil) 191 : (2009) 10 SCC 689**).*

9. 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...'

22. In **K.N. Aswathanarayana Setty (D) Tr. LRs and others Vs. State of Karnataka and others 2014 (15) SCC 394** while considering the right of purchaser of land subsequent to issuance of Section 4 notification, the Hon'ble Apex Court categorically observed that one who deals with the land subsequent to a Section 4 notification being issued, does so at his own peril. The purpose of the notification is to give the notice to public at large that the land is required for public purpose and there will be an impediment to anyone to encumber the land acquired there under. The alienation thereafter does not bind the State and does not vest purchaser with any title or right in the land, as much as the transaction is void in law and at the most, the purchaser may be considered as a person interested in compensation since he steps into the shoes of the erstwhile owner and may therefore, merely claim compensation and cannot challenge the acquisition proceedings.

23. From the aforesaid discussions, there does not remain even an iota of doubt that the law as regards the subsequent purchaser is well settled and has remained consistent all through out to the effect that a

subsequent purchaser has no locus standi to challenge the validity of the acquisition proceedings on any ground whatsoever, for the reason that the sale deed executed in his favour is void ab initio and does not confer upon him, any title. However, though the subsequent purchaser acquires no title to the land, yet he would be entitled to step into the shoes of the owner, as a person interested in the compensation and thus, can claim payment of the compensation, but according to the provisions of the Act, of course, if not already received by his vendor.

24. However, with the advent of new law with regard to the land acquisition in the form of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and especially the provision of deemed lapse of acquisition as envisaged under Section 24 (2) of the Act of 2013, a question arose as to ***whether the subsequent purchasers/assignees/power of attorney holders etc have locus standi to file a petition for declaration of lapse of acquisition proceedings u/s 24 (2) of the Act of 2013.***
25. The two judge bench of the Hon'ble Supreme Court in ***Government of NCT of Delhi Vs. Manav Dharam Trust and another reported in 2017 (6) SCC 751*** adjudicated upon the aforesaid issue and while upholding the proposition of law that the subsequent purchasers does not have locus standi to challenge the acquisition proceedings, held that he can maintain a petition seeking declaration that the acquisition proceedings have lapsed in view of the operation of Section 24 (2) of the Act of 2013. The Hon'ble Court distinguished the judgments to the effect that the subsequent purchaser has no right to question the validity of acquisition proceedings by observing that there is a difference between challenging the legality or validity of the acquisition proceedings and claiming the lapse of the acquisition proceedings by virtue of operation of a subsequent legislation. To quote, the Hon'ble Supreme Court observed as follows:

'...22. All the decisions cited by the learned Senior Counsel appearing for the appellants, no doubt, have categorically held that the subsequent purchasers do not have locus standi to challenge the acquisition proceedings. But in the present case, the challenge is not

to the acquisition proceeding; it is only for a declaration that the acquisition proceedings have lapsed in view of the operation of Section 24(2) of the 2013 Act, and therefore, the ratio in those cases has no application to these cases.

23. It is one thing to say that there is a challenge to the legality or propriety or validity of the acquisition proceedings and yet another thing to say that by virtue of operation of a subsequent legislation, the acquisition proceedings have lapsed.

24. In all the decisions cited by the learned Senior Counsel for the appellants, which we have referred to above, this Court has protected the rights of the subsequent purchaser to claim compensation, being a person interested in the compensation, despite holding that they have no locus standi to challenge the acquisition proceedings.

*25. The 2013 Act has made a sea change in the approach on the acquisition of land and compensation thereof. The only lapse under the 1894 Act was under Section 11A where what would lapse is the ... "entire proceedings for the acquisition of land" whereas under Section 24(2) of the 2013 Act, what gets lapsed is the land acquisition proceedings initiated under the 1894 Act which has culminated in passing of an award under Section 11 but where either possession was not taken or compensation was not paid within five years prior to 01.01.2014. In other words, the land acquisition proceedings contemplated under Section 24(2) of the 2013 Act would take in both, payment of compensation and taking of possession within the five year period prior to 01.01.2014. If either of them is not satisfied, the entire land acquisition proceedings would lapse under the deeming provision. The impact of deemed lapse under Section 24(2) is that pervasive. To quote R.F. Nariman, J. in **Delhi Development Authority v. Sukbir Singh and others, 2016(4) R.C.R.(Civil) 407 : 2016(5) Recent Apex Judgments (R.A.J.) 369 : (2016) 8 SCALE 655**. To quote:*

"... As is well settled, a deeming fiction is enacted so that a putative state of affairs must be imagined, the mind not being allowed to boggle at the logical consequence of such putative state of affairs ... In fact, Section 24(2) uses the expression "deemed to have lapsed" because the Legislature was cognisant of the fact that, in cases where compensation has not been paid, and physical possession handed over to the State/vesting has taken place, after which land acquisition proceedings could be said to have been ended. ..." (Paragraph-27).

Thus, on account of the lapse, the encumbrance created in favour of the State comes to an end, and resultantly, the impediment to encumber the land also comes to an end. Even, according to the appellants, the transfers were illegal and void for the reason that there was an impediment for the transfer.

Once the acquisition proceedings lapse, all impediments cease to exist.

The Hon'ble Court held that on account of the lapse as envisaged under Section 24 (2) of the Act of 2013, the encumbrance created in favour of the State comes to an end and resultantly the impediment to encumber the land also comes to an end, therefore, if the acquisition proceedings itself stood lapsed, consequently all the impediments cease to exist. Accordingly, the Hon'ble Court held that the subsequent purchaser has a locus standi to claim the lapse of acquisition proceedings in terms of Section 24 (2) of the Act of 2013 and observed as follows:

'....There is a clear indication that the Act proposes to protect the interest of those persons, among others who are affected by the acquisition. The subsequent purchasers/successors, etc., in the cases before us, are all people affected by the acquisition, and therefore, also they are entitled to seek a declaration on lapse under the 2013 Act.

*28. The High Court of Karnataka at Bengaluru in **Suryaprakash and others v. State of Karnataka and others, Writ Petition No. 10286-291 of 2014, decided on 05.12.2016** has considered a situation of lapse and locus standi of the subsequent purchaser to file a writ petition for a declaration on lapse, though not under Section 24(2) of the 2013 Act. At paragraph-16, it has been held:*

*"16. ... the principle that transferee of land after the publication of preliminary notification cannot maintain a writ petition challenging the acquisition, cannot be made applicable to a case where the acquisition itself has been abandoned and has stood lapsed due to efflux of time on account of the omission and inaction on the part of the acquiring authority, particularly because, it is because of the lapse of time and the abandonment of the acquisition, right accrues to the original owner to deal with his property including by way of the sale and the purchaser will acquire right to protect his interest. Hence, the judgment in the case of **Rajasthan State Industrial Development and Investment Corporation v. Subhash Sindhi Cooperative Housing Society, Jaipur and others (2013) 5 SCC 427**, will have no application to the facts of the present case."*

We are of the view that this decision, in principle, applies to the facts of these appeals as well.

29. Thus, the subsequent purchaser, the assignee, the successor in interest, the power of attorney, etc., are all persons who are interested in compensation/land owners/affected persons in terms of the 2013 Act and such persons are entitled to file a case for a declaration that the land acquisition proceedings have lapsed by

virtue of operation of Section 24(2) of the 2013 Act. It is a declaration qua the land wherein indisputably they have an interest and they are affected by such acquisition. For such a declaration, it cannot be said that the respondents/writ petitioners do not have any locus standi.....'

26. The judgment in ***Manav Dharam Trust (Supra)*** has also been relied upon by the petitioner, however it is imperative to mention here that it held the field of law until it was overruled by the Hon'ble Three Judge Bench of the Hon'ble Supreme Court in the case titled as ***Shiv Kumar and anr Vs. Union of India and ors. Reported as AIR 2019 (SC) 5374***, by observing that the judgment in ***Manav Dharam Trust (Supra)*** was passed without considering the provisions of the Act of 2013 and the binding precedents as far as the law regarding subsequent purchaser was concerned.
27. The Hon'ble Court while referring to the catena of decisions of the Hon'ble Supreme Court of India as has also been referred hereinabove observed that the subsequent purchasers cannot question the acquisition proceedings on any ground whatsoever, much less can they claim the lapsing of the acquisition under section 24(2) of the Act of 2013. The Hon'ble Court while referring to the beneficial provisions as provided under the Act of 2013 observed that the sole intent of the provisions is to benefit the land owner mentioned in the preliminary notification and not to benefit the purchaser who purchased the land after it had been vested in the State and therefore, accordingly it would not be legal, just and equitable to give the land back to the purchaser in terms of Section 24 (2) of the Act, 2013, who is claiming the title in the land on the basis of a void transaction. To quote:-

'...18. The Act of 2013 presupposes that a person is required to be rehabilitated and resettled. Such a person who has purchased after section 4 notification as sale deed is void under the Act of 1894, cannot claim rehabilitation and resettlement as per policy envisaged under the Act of 2013, as his land has not been acquired, but he has purchased a property which has already been acquired by the State Government, he cannot claim even higher compensation, as per proviso to section 24(2) under the Act of 2013. An original landowner cannot be deprived of higher value under the Act of 2013, which higher compensation was not so contemplated

when the void transaction of sale had been entered, and right is conferred under proviso to Section 24(2) on recorded owners under Act of 1894. We have come across instances in which after notifications under section 4 were issued and, the property was purchased at throwaway prices by the builders and unscrupulous persons, such purchases are void and confer no right even to claim higher compensation under Section 24(2) of the Act of 2013 as it is to be given to the owner as mentioned in the notification.

19. Given that, the transaction of sale, effected after section 4 notification, is void, is ineffective to transfer the land, such incumbents cannot invoke the provisions of section 24. As the sale transaction did not clothe them with the title when the purchase was made; they cannot claim 'possession' and challenge the acquisition as having lapsed under section 24 by questioning the legality or regularity of proceedings of taking over of possession under the Act of 1894. It would be unfair and profoundly unjust and against the policy of the law to permit such a person to claim resettlement or claim the land back as envisaged under the Act of 2013. When he has not been deprived of his livelihood but is a purchaser under a void transaction, the outcome of exploitative tactics played upon poor farmers who were unable to defend themselves.

20. Thus, under the provisions of Section 24 of the Act of 2013, challenge to acquisition proceeding of the taking over of possession under the Act of 1894 cannot be made, based on a void transaction nor declaration can be sought under section 24(2) by such incumbents to obtain the land. The declaration that acquisition has lapsed under the Act of 2013 is to get the property back whereas, the transaction once void, is always a void transaction, as no title can be acquired in the land as such no such declaration can be sought. It would not be legal, just and equitable to give the land back to purchaser as land was not capable of being sold which was in process of acquisition under the Act of 1894. The Act of 2013 does not confer any right on purchaser whose sale is ab initio void. Such void transactions are not validated under the Act of 2013. No rights are conferred by the provisions contained in the 2013 Act on such a purchaser as against the State...'

The Hon'ble Court hold that the intent of the Act of 2013 is to benefit the landowners and subsequent purchasers cannot be said to be the landowner entitled to restoration of the land and thus cannot be termed as affected persons under the Act of 2013 and therefore cannot claim the lapse of the acquisition proceedings in terms of section 24(2) of the Act of 2013.

28. In addition to the aforesaid, the Hon'ble Court in ***Shiv Kumar (Supra)*** further held that the persons claiming the right in the land based on the transactions namely Agreement to sell, General Power of Attorney and will do not have any right to challenge the acquisition proceedings and seek the lapsing of acquisition proceedings.
29. The findings made in Shiv Kumar (Supra) has further been approved by the Hon'ble 5-judge bench of the Hon'ble Apex Court in ***Indore Development Authority v. Manoharlal (Supra)*** in para 337 of the judgment which is quoted herein below:

'...337. Before proceeding further, in our opinion, Section 24 contemplates pending proceedings and not the concluded ones in which possession has been taken, and compensation has been paid or deposited. Section 24 does not provide an arm or tool to question the legality of proceedings, which have been undertaken under the Act of 1894 and stood concluded before five years or more. It is only in cases where possession has not been taken, nor compensation is paid, that there is a lapse. In case possession has been taken, and compensation has not been deposited with respect to majority of landholdings, the beneficial provision of the statute provides that all beneficiaries shall be paid compensation as admissible under the Act of 2013. The beneficiaries, i.e., landowners contemplated under the proviso to Section 24(2), are the ones who were so recorded as beneficiaries as on the date of issuance of notification under Section 4 of the Act of 1894. The provision is not meant to be invoked on the basis of void transactions, and by the persons who have purchased on the basis of power of attorney or otherwise, they cannot claim the benefit under Section 24 as is apparent from proviso to Section 24(2) and the decision in Shiv Kumar and Ors. v. Union of India and Ors...'

30. Thus, the proposition of law with regard to the '***subsequent purchasers***' i.e. the person who has purchased the land after the issuance of notification under section 4 of the Land Acquisition Act, 1894 is well settled now, and in view thereof the subsequent purchaser neither has any locus standi to challenge the acquisition on any ground nor does has any right to claim the lapse of acquisition proceedings under section 24(2) of the Act of 2013. The only right that is available to the subsequent purchaser is to claim the compensation as much as he steps into the shoes of erstwhile owner. The object to not recognise such transactions is to keep the sanctity of the acquisition proceedings intact and to not allow anybody to jeopardise the acquisition proceedings in any manner.

31. After having expounded the law with regard to the subsequent purchaser, the present petition deserves to be dismissed on this ground alone as it is the admitted fact that the petitioner is subsequent purchaser. Moreover, this court recently while deciding the batch of writ petitions of which the leading case was ***Daya Ram and others v. State of Haryana and others (supra)***, carved out four categories in view of the decision in ***Indore Development Authority v. Manoharlal (Supra)***, of which Category-I related to the subsequent purchasers and the petitions filed by the subsequent purchasers claiming lapse of acquisition proceedings has been dismissed.
32. It is pertinent to mention that even on merits the present petition is liable to be dismissed in terms of the judgment passed in ***Indore Development Authority v. Manoharlal (Supra)*** which was minutely examined by us while deciding the batch of writ petitions in ***Daya Ram (Supra)***. The principles laid down in para 363 of the judgment in *Indore Development Authority v. Manoharlal (Supra)* are reproduced herein below:

'....1. Under the provisions of Section 24(1)(a) in case the award is not made as on 1.1.2014 the date of commencement of Act of 2013, there is no lapse of proceedings. Compensation has to be determined under the provisions of Act of 2013.

2. In case the award has been passed within the window period of five years excluding the period covered by an interim order of the court, then proceedings shall continue as provided under Section 24(1)(b) of the Act of 2013 under the Act of 1894 as if it has not been repealed.

3. The word 'or' used in Section 24(2) between possession and compensation has to be read as 'nor' or as 'and'. The deemed lapse of land acquisition proceedings under Section 24(2) of the Act of 2013 takes place where due to inaction of authorities for five years or more prior to commencement of the said Act, the possession of land has not been taken nor compensation has been paid. In other words, in case possession has been taken, compensation has not been paid then there is no lapse. Similarly, if compensation has been paid, possession has not been taken then there is no lapse.

4. The expression 'paid' in the main part of Section 24(2) of the Act of 2013 does not include a deposit of compensation in court. The consequence of non-deposit is

provided in proviso to Section 24(2) in case it has not been deposited with respect to majority of land holdings then all beneficiaries (landowners) as on the date of notification for land acquisition under Section 4 of the Act of 1894 shall be entitled to compensation in accordance with the provisions of the Act of 2013. In case the obligation under Section 31 of the Land Acquisition Act of 1894 has not been fulfilled, interest under Section 34 of the said Act can be granted. Non-deposit of compensation (in court) does not result in the lapse of land acquisition proceedings. In case of non-deposit with respect to the majority of holdings for five years or more, compensation under the Act of 2013 has to be paid to the "landowners" as on the date of notification for land acquisition under Section 4 of the Act of 1894.

5. *In case a person has been tendered the compensation as provided under Section 31(1) of the Act of 1894, it is not open to him to claim that acquisition has lapsed under Section 24(2) due to non-payment or non-deposit of compensation in court. The obligation to pay is complete by tendering the amount under Section 31(1). Land owners who had refused to accept compensation or who sought reference for higher compensation, cannot claim that the acquisition proceedings had lapsed under Section 24(2) of the Act of 2013.*

6. *The proviso to Section 24(2) of the Act of 2013 is to be treated as part of Section 24(2) not part of Section 24(1)(b).*

7. *The mode of taking possession under the Act of 1894 and as contemplated under Section 24(2) is by drawing of inquest report/ memorandum. Once award has been passed on taking possession under Section 16 of the Act of 1894, the land vests in State there is no divesting provided under Section 24(2) of the Act of 2013, as once possession has been taken there is no lapse under Section 24(2).*

8. *The provisions of Section 24(2) providing for a deemed lapse of proceedings are applicable in case authorities have failed due to their inaction to take possession and pay compensation for five years or more before the Act of 2013 came into force, in a proceeding for land acquisition pending with concerned authority as on 1.1.2014. The period of subsistence of interim orders passed by court has to be excluded in the computation of five years.*

9. *Section 24(2) of the Act of 2013 does not give rise to new cause of action to question the legality of concluded proceedings of land acquisition. Section 24 applies to a proceeding pending on the date of enforcement of the Act of 2013, i.e., 1.1.2014. It does not revive stale and time-barred claims and does not reopen concluded proceedings nor allow landowners to question the legality of mode of taking possession to reopen proceedings or mode of deposit of compensation in the treasury instead of court to invalidate acquisition'.*

33. In view of the aforesaid principles undoubtedly nothing survives in the present petition, as the possession of the land has been duly taken by the Rapat No. 66 dated 07.10.1991. The land vests in the State Government absolutely, therefore any possession retained by the petitioner is only in the capacity of trespasser. As has been apprised by Mr. Mittal and noted herein above, the compensation was though tendered, was not received by the petitioner/his vendor and the same is lying deposited in the account of LAC. Therefore, none of the contingencies as envisaged under section 24(2) of the Act of 2013 is fulfilled as far as the present petition is concerned. It is also pertinent to mention that the petitioner has placed reliance on Pune Municipal Corporation (supra), which now stands overruled by the Hon'ble Supreme Court in para 362 of the Indore Development Authority (supra), therefore the reliance on the same loses its significance altogether.
34. Thus, in the conspectus of what has been discussed herein above, we hold as follows:
- a. The payment of sale consideration is not the touchstone to see whether the vendee is a 'subsequent purchaser', the date of execution of sale deed is relevant to ascertain whether the land has been purchased prior or post to the issuance of notification under section 4 of the Land Acquisition Act, 1894.
 - b. Subsequent Purchaser has no right to challenge the acquisition proceedings, on any ground whatsoever and further they cannot claim the lapsing of acquisition proceedings in view of section 24(2) of the Act of 2013. The only right available to them is with regard to the claim of compensation as much as they step into the shoes of erstwhile owner, if their vendor hasn't received it.
 - c. The acquisition proceedings in the present case does not lapse in terms of section 24(2) of the Act of 2013, both the contingencies remain unfulfilled as the possession has been duly taken by recording Rapat Roznamcha and the compensation was tendered which was not taken and the same is lying deposited in the account of LAC.

35. Thus, in view of what has been discussed herein above, analysis of the judicial pronouncements in this field, the guiding principles enumerated in Indore Development Authority (Supra) and above all finding the petitioner to have purchased the land in question after the issuance of notification u/s 4 of the Act of 1894, the present petition is hereby dismissed. With the dismissal of the main petition, the pending applications, if any meets the same fate. The interim order if any, stands hereby vacated.

Petition Dismissed.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

November 11, 2020
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