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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 18.08.2021

Pronounced on: 07.09.2021

CORAM

THE HON'BLE MR. JUSTICE G.K.ILANTHIRAIYAN

WP.No.10563 of 2013

V.K.Rajasekaran

..Petitioner

Vs.

- 1.The State of Tamilnadu,
represented by its Secretary to Government,
Housing and Urban Development Department,
Fort St.George, Chennai-9
- 2.The Special Tahsildar,
Land Acquisition,
Housing Scheme Unit-I,
Coimbatore
- 3.The Executive Engineer and Administrative Officer,
Tamil Nadu Housing Board-Coimbatore Housing Unit,
Tatabad, Coimbatore-12

(R3 impleadd as per order dated 16.04.2015
in MP.No.1 of 2014 in WP.No.10563/2013)

..Respondents

PRAYER: The Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of certiorari calling for the records in relation to the notification issued under Section 4(1) of the Land Acquisition Act, 1984, in GO.Ms.No.495 dated 14.11.1996 (Housing and Urban Development Department), the declaration made under section 6 of the Land Acquisition Act in GO.Ms.No.442 dated 23.12.1997 (Housing Urban Development) by the first respondent and the draft award in Award No.2 of 1999 dated 31.12.1999 passed by the second respondent under the Land Acquisition Act, 1894, quash the same in respect of the lands belonging to the petitioner, comprised in SF.Nos.8/2A, 8/2C and 9/2A situated at Vellakinaru Village, Coimbatore.

(Prayer amended vide order dated 27.04.2021 made in WMP.No.11016 of 2021 in WP.No.10563 of 2013)



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For Petitioner : Mr.P.S.Raman,
Senior Counsel
for Mr.R.N.Amarnath

For Respondents
For R1 & 2: Mr.Richardson Wilson,
Government Advocate
For R3 : Mrs.R.Gowri,
Standing Counsel

ORDER

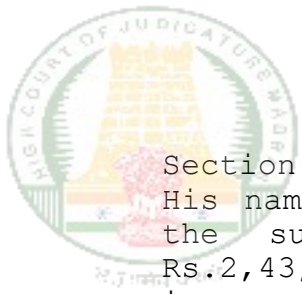
This writ petition is filed to issue a writ of certiorari calling for the records in relation to the notification issued under Section 4(1) of the Land Acquisition Act, 1984, in GO.Ms.No.495 dated 14.11.1996 (Housing and Urban Development Department), the declaration made under section 6 of the Land Acquisition Act in GO.Ms.No.442 dated 23.12.1997 (Housing Urban Development) by the first respondent and the draft award in Award No.2 of 1999 dated 31.12.1999 passed by the second respondent under the Land Acquisition Act, 1894, quash the same in respect of the lands belonging to the petitioner, comprised in SF.Nos.8/2A, 8/2C and 9/2A situated at Vellakinaru Village, Coimbatore.

2. The case of the petitioner is that the petitioner owned lands comprised in SF.No.8/2A, 8/2C and 9/2A situated at Vellakinaru village, Coimbatore. The petitioner came to know on 08.04.2013 when the officials of the second respondent made enquiry about the acquisition proceedings in respect of the land owned by him for the purpose of formation of Vellakinaru Neighbourhood Scheme. The petitioner came to know about the notification issued under Section 4 (1) of the Land Acquisition Act (hereinafter called as the Act) dated 14.11.1996 followed by Section 6 notification dated 23.12.1997. On perusal of the notification, the petitioner was not served any notice, and was not given any opportunity to raise his objections. In fact, both the notifications issued under Sections 4 (1) and 6 of the Act do not contain the petitioner's name and only his grandfather's name was mentioned in the notice. The subject properties were settled by his grandfather in the year 1991 by the registered settlement deed dated 10.04.1991 vide document No.2306 of 1991. In pursuant to the settlement, the petitioner's name was entered in the revenue records even prior to the notification. Even then, the petitioner was not served any notice and he was not called for any enquiry. Even till today, the petitioner was not served any notice for award enquiry as contemplated under Section 9(3), 10 and Section 12(2) of the Act.



3. The second respondent filed counter and stated that the third respondent requested for the acquisition of 330.71.5 hectares of land in Vellakinaru village for construction of house under Thudiyalur Neighbourhood Scheme. The draft notification under sub-section (1) of Section 4 of the Act was approved by the GO.Ms.No.495 Housing and Urban Development Scheme dated 14.11.1996 and published in Tamilnadu Government Gazette dated 18.12.1996. It was also published in Tamil dailies on 03.01.1997. Thereafter, enquiry was conducted as contemplated under Section 5-A of the Act on 31.03.1997 and 16.04.1997. The owners and interested persons appeared and filed their objections. The objections were duly forwarded to the third respondent and replies were communicated to the land owners and the interest persons. Thereafter, they appeared before the enquiry on 30.09.1997. Some of the land owners filed their objections and appeared for enquiry. Considering the objections and remarks from the requisitioning body, recommended for over-ruling and thereby the objections were over-ruled by the Government and approved the draft declaration under Section 6 of the Act issued and published in Tamilnadu Government Gazette on 24.12.1997. It was also published in two tamil dailies on 29.12.1997. The declaration was approved and notices under Sections 9 (3) and 10 of the Act were served to all the land owners and interest persons. Accordingly, the award enquiry was conducted on 26.11.1999 and award has been passed on 31.12.1999. After passing the award on 31.12.1999, possession has been handed over to the Tamilnadu Housing Board on 16.12.2005. After period of 14 years from the date of the award, the writ petition has been filed. Insofar as petitioner is concerned, he was duly served notice and he had appeared for award enquiry and his name was found in the award. The petitioner was served with notice for enquiry under Section 5-A and 9(3) and 10 of the Act. The petitioner appeared and filed his objections. The award enquiry was conducted on 26.11.1999 and the petitioner himself appeared for award enquiry and had given statement. Accordingly, award has been passed on 31.12.1999. As such, prayed for dismissal of the writ petition.

4. The third respondent filed counter and stated that the petitioner's name is notified in respect of the property comprised in SF.No.8/2A in the notification issued under Section 4(1) of the Act. Accordingly, he appeared for enquiry and stated that an extent of 2 acres is in his possession and enjoyment as per gift deed dated 12.04.1991 registered vide document No.2306 of 1991. Thereafter, the petitioner has been duly served notices as contemplated under Sections 9(3) and 10 of the Act. In fact, the petitioner appeared for award enquiry and his statement was recorded and accordingly award has been passed on 31.12.1999. Therefore, the petitioner had knowledge about the acquisition proceedings and also participated in the enquiry conducted under



Section 5-A, Sections 9(3) and 10 of the Land Acquisition Act. His name was duly found in the award dated 31.12.1999. Insofar the subject property is concerned, the compensation of Rs.2,43,073/- was awarded and a sum of Rs.36,947/- was awarded in respect of SF.No.8/2A, 8/2C and 9/2A in Award No.2 of 1999. The same was deposited in the civil court in the name of the Principal Subordinate Judge vide challan No.G-817303 and G-973399 in the month of June, 2000. In fact, possession of the lands in respect of the subject property had been handed over to the third respondent as early as on 16.12.2005 itself. Thereafter, as per master plan of the local planning authority, the land conversion proposal was sent to the local planning authority and the same was approved on 04.06.2013 and sent to the Commissioner of Town and Country Planning, Chennai for approval. Thereafter, the third respondent assessed demand from the public and received application from the general public for allotment of buildings under HIG/MIG/LIG categories. Further stated that while pending the writ petition, the petitioner sold out the subject property by the registered sale deed vide document No.654 of 2016 in favour of one C.Jayakumar. Thereafter in turn, the said Jayakumar executed sale deed in favour of one, Martin by the sale deed vide document No.4888 of 2016. Therefore, the petitioner has no title over the property and the writ petition itself is devoid of merits and liable to be dismissed.

5. While pending the writ petition, the petitioner filed petition to amend the prayer as follows:

writ of certiorari calling for the records in relation to the notification issued under Section 4 (1) of the Land Acquisition Act, 1984, in GO.Ms.No.495 dated 14.11.1996 (Housing and Urban Development Department), the declaration made under section 6 of the Land Acquisition Act in GO.Ms.No.442 dated 23.12.1997 (Housing Urban Development) by the first respondent and the draft award in Award No.2 of 1999 dated 31.12.1999 passed by the second respondent under the Land Acquisition Act, 1894, quash the same in respect of the lands belonging to the petitioner, comprised in SF.Nos.8/2A, 8/2C and 9/2A situated at Vellakinaru Village, Coimbatore.

6. Mr.P.S.Raman, Senior counsel appearing for the petitioner raised the following grounds:

(i) There was no prior approval given by the first respondent to initiate proceedings as contemplated under Section 3(f) (VI) of the Act.

(ii) The petitioner was never served notice under Sections 4(1) and 5(A) of the Act. Therefore,



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the entire acquisition proceedings is vitiated.

(iii) The petitioner was also not served with notice as contemplated under Section 9(3), 10 of the Act for the award enquiry or under Section 12(2) of the Act after passing award, if any, by the second respondent

(iv) The compensation amount is also not deposited either before the competent court or any other forum as required by law.

7. The petitioner was also permitted to raise additional grounds, which is extracted hereunder:

(i) The physical possession of the subject land is not taken from the petitioner by the acquisition officer or the District Collector under Section 16 of the Act in the manner known to law till date. Therefore, the entire acquisition proceedings initiated under the Act shall be deemed to have been lapsed.

(ii) The petitioner is in continuous possession and enjoyment of the property till date and as such the acquisition proceedings initiated under the Act shall be deemed to have been lapsed in view of Section 24 (2) of the new Act i.e. The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation, Resettlement Act, 2013.

8. The learned Senior Counsel, in support of his contention, has relied upon the following judgments:

- (i) Devender Kumar Tyagi and others Vs. State of Uttar Pradesh and Others reported in (2011) 9 SCC 164
- (ii) Kolammal (deceased by LR's) & Anr. Vs. State of Tamilnadu & Ors. reported in 2007 SCC Online Mad 278
- (iii) State of Uttar Pradesh and Others Vs. Rajiv Gupta and another reported in (1994) 5 SCC 686
- (iv) Thiruvaleeswarar Temple, Nerkundram rep. by sole trustee N.Kasiviswanathan Vs. The State of Tamilnadu rep. by the Secretary reported in 1990 (1) MLJ 142
- (v) Hindustan Petroleum Corporation Limited Vs. Darius Shapur Chenai and Others reported in (2005) 7 SCC 627
- (vi) K.Rakkianna Gounder and others Vs. The Secretary, Government of Tamilnadu and others reported in 2014 (1) CTC 64



9. Heard, Mr.P.S.Raman, Senior Counsel appearing for the petitioner, Mr.Richardson Wilson, Government Advocate appearing for the respondents 1 & 2, and Mrs.R.Gowri, Standing Counsel appearing for the third respondent.

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10. The petitioner owned the subject property in pursuant to the settlement deed executed by his father dated 10.04.1991 registered vide document No.2306 of 1991. The third respondent has proposed to acquire the lands for the formation of Vellakinaru Neighbourhood Scheme and the land acquisition proceedings were initiated to acquire the lands under the Land Acquisition Act, 1894. Accordingly, draft declaration as contemplated under Section 4(1) of the Land Acquisition Act was duly approved by the Government in GO.Ms.No.495, Housing and Urban Development Department dated 14.11.1996 and published on 18.12.1996. The said notification was also published in Tamil dailies on 03.01.1997. The substance of the notification was also published in the locality on 06.01.1997.

11. According to the petitioner, his name was not found in 4 (1) notification and he was not served any notice under Section 6(a) of the Act. The petitioner's name was found in the 4(1) notification in respect of the land comprised in SF.No.8/2A. The petitioner was duly served notice under Section 5-A of the Act and he appeared for enquiry. He categorically submitted that he is in possession of the extent of 2 acres land comprised in SF.No.8/2A, 8/2C and 9/2A as per the settlement deed dated 10.04.1991 registered vide document No.2306 of 1991 executed by his grandfather. Under the notification, the objections were obtained from the owners / interested persons. The objections were forwarded to the third respondent and after receipt of the remarks, conducted enquiry as contemplated under Section 5-A of the Act on 31.03.1997 and 16.04.1997. The draft declaration under Section 6 was approved by the Government and published in the Tamilnadu Government Gazattee on 24.12.1997. It was also published in the Tamil dailies on 29.12.1997 and locality publication on 02.01.1998. Thereafter, the petitioner was duly served notice as contemplated under Sections 9(3) and 10 of the Land Acquisition Act. In fact, the land owners and the interested persons appeared and raised their objections. Thereafter, their objections were forwarded to the requisitioning body i.e. third respondent and the remarks received from the requisitioning body was forwarded to the land owners including the petitioners herein. Thereafter, they were asked to appear for further enquiry on 30.09.1997. After their appearance and their objections were considered, and the requisitioning body recommended for over-ruling. The objections were over-ruled by the Government and approved the draft notification under Section 6 of the Land Acquisition Act in GO.Ms.No.442 Housing and Urban Development Department passed on



23.12.1997 and the same was published in the Tamilnadu Government Gazattee No.634 dated 24.12.1997. It was also published in Tamil dailies on 29.12.1997. The substance of the declaration was also published on 02.01.1998 in the locality. Therefore, the petitioner was duly served with notice and he appeared for enquiry and raised his objections. Only on the prior approval given by the first respondent, the second respondent initiated acquisition proceedings as contemplated under Section 3 (f) VI of the Act. Therefore, the judgments cited by the learned Senior Counsel are not helpful to the case on hand.

12. Insofar as additional grounds raised by the learned Senior Counsel with regards to the possession and payment of the compensation, the records revealed that award amount has been deposited in the civil court i.e. on the file of the Principal Subordinate Judge vide challan No.G-817303 and G-973399 in the month of June, 2000 itself for the subject property. Insofar as possession is concerned, on 16.12.2005, the second respondent handed over the possession of the subject property along with other properties to the third respondent. In turn, the third respondent sent proposal for the land conversion to the local planning authority for the change of land use from agricultural and industrial zone into residential. The same was duly approved by the Government vide GO.Ms.No.42 dated 04.06.2013. Thereafter, layout plan has been prepared and the same was approved by the third respondent and sent to the Commissioner of Town and Country Planning for approval. It has been published in the Tamilnadu Gazattee No.19 dated 21.05.2014. In this regard, the learned Government Advocate relied upon the judgment reported in (2020) 8 SCC 129 in the case of Indore Development Authority Vs. Manoharlal and ors etc., wherein it is held as follows:

"366. In view of the aforesaid discussion, we answer the questions as under:

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



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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



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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."

As such, he contended that Section 24(2) of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation, Resettlement Act, 2013 is available only for pending proceedings and not applied for concluded proceedings. Therefore, the writ petition itself is not maintainable.

13. Admittedly, the petitioner's name was found in the 4(1) notification and he also appeared before the second respondent for enquiry as contemplated under Section 5-A of the Act. Award was also passed in the name of the petitioner and the award amount was also deposited in the civil court. Therefore, acquisition proceedings cannot be vitiated on the ground of lapses as contemplated under Section 24 (2) of the new Act i.e. Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. That apart, the present writ petition has been filed in the year 2013 challenging the notification issued under Section 4(1) and declaration under Section 6 of the Act and the award dated 31.12.1999. The petitioner duly appeared before the second respondent for enquiry, and he made his statement. When it being



so, the petitioner failed to challenge the same within reasonable time. The writ petition has been filed after period of 14 years from the date of award. Therefore, the writ petition itself is liable to be dismissed on the ground of lapses. In fact, while pending this writ petition, the petitioner sold out the subject property in favour of one, C.Jayakumar by the registered sale deed vide document No.654 of 2016. In turn, the said Jayakumar executed sale deed in favour of one, Martin vide document No.4888 of 2016. Therefore, the petitioner has no title or right over the property to challenge the acquisition proceedings relating to the subject property when it was already sold out by him.

14. Even the subsequent purchasers cannot be said to be land owners entitled to registration of land and cannot be termed to be affected persons within the provisions of the new Act i.e. Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. It is not open to them to claim that the proceedings have lapsed under Section 24 (2) of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. In this regard, the learned Government Advocate relied upon the judgment reported in (2019) 10 SCC 229 in the case of Shiv Kumar and anr Vs Union of India and ors, in which the Hon'ble Supreme Court of India held as follows :-

"13. The definition of 'landowner' is in Section 3(r), the same is extracted hereunder:

3. Definition.-In this Act, unless the context otherwise requires,--

(r) "landowner" includes any person,--
(i) whose name is recorded as the owner of the land or building or part thereof, in the records of the authority concerned; or

(ii) any person who is granted forest rights under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (2 of 2007) or under any other law for the time being in force; or

(iii) who is entitled to be granted Patta rights on the land under any law of the State including assigned lands; or (iv) any person who has been declared as such by an order of the court or Authority;

Landowner is a person who is recorded as the owner of land or building. The record of date of issuance of preliminary notification Under Section 11 is relevant. A purchaser after Section 11 cannot be said



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to be a landowner within the purview of Section 3(r).

.....

21. 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.

22. 'Void is, ab initio,' a nullity, is inoperative, and a person cannot claim the land or declaration once no title has been conferred upon him to claim that the land should be given back to him. A person cannot enforce and ripe fruits based on a void transaction to start claiming title and possession of the land by seeking a declaration Under Section 24 of the Act of 2013; it will amount to conferment of benefit never contemplated by the law. The question is, who can claim declaration/rights Under Section 24(2) for the restoration of land or lapse of acquisition. It cannot be by a person with no title in the land. The provision of the Act of 2013 cannot be said to be enabling or authorizing a purchaser after Section 4 to question proceeding taken under the Act of 1894 of taking possession as held in U.P. Jal Nigam (supra) which is followed in M. Venkatesh (supra) and other decisions and consequently claim declaration Under



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Section 24 of the Act of 2013. What cannot be done directly cannot be permitted in an indirect method.

23. The provisions of the Act of 2013 aimed at the acquisition of land with least disturbance to the landowners and other affected families and to provide just and fair compensation to affected families whose land has been acquired or proposed to be acquired or are affected and to make adequate provisions for such affected persons for their rehabilitation and resettlement. The provisions of Act of 2013 aim at ousting all inter-meddlers from the fray by ensuring payment in the bank account of landholders Under Section 77 of the Act.

24. The intendment of Act of 2013 is to benefit farmers etc. Subsequent purchasers cannot be said to be landowners entitled to restoration of land and cannot be termed to be affected persons within the provisions of Act of 2013. It is not open to them to claim that the proceedings have lapsed Under Section 24(2)."

In view of the above, even the subsequent purchasers of subject property cannot claim any right over the property since the sale deed does not create any interest over the immovable property.

15. On perusal of the adangal extract from the year 1996 to 2012 and the chitta with regards to the subject property, comprised in survey No.8/2A and 9/2A, stood in the name of the petitioner's grandfather i.e. Muthusamy Gounder. Therefore, even after settlement deed, the revenue records stood in the name of the Muthusamy Gounder and not mutated in the name of the petitioner herein. That apart, the petitioner's name duly appeared in the 4(1) notification insofar as the property comprised in SF.No.8/2A and he made statement that he owned lands in SF.No.8/2A, 8/2C and 9/2A. He had knowledge about the acquisition proceedings and he participated in the enquiry and he submitted his objections. In this regard, the learned Government Advocate relied upon the judgment in the case of Tej Kaur and Ors. Vs. State of Punjab reported in (2003) 4 SCC 485, wherein it is held as follows:

6. It is true that [Section 5A](#) inquiry is an important stage in the acquisition proceedings and a person who is aware of Section 4(1) Notification can raise objection to the effect that his property is not required for acquisition and he is also at liberty to raise the contention that the property is



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not required for any public purpose. It is also true, that the objector must also be given a reasonable opportunity of being heard and any violation of the procedure prescribed under [Section 5A](#) would seriously prejudice the rights of the owner of the property whose land is sought to be acquired. In the instant case, however, it is pertinent to note that the Collector had, in fact, conducted the [Section 5A](#) inquiry, though there is no material on record to show that the appellants in Civil Appeal No. 66 of 1998 were heard in person. The facts and circumstances of Civil Appeal No. 66/1998 clearly show that the objection raised by the appellants was considered and partly allowed by the Collector. About eight acres of land was sought to be acquired from the appellants as per the Notification, but out of that, an extent of six acres was excluded from acquisition and only one and half acre of land was actually acquired by the authorities. This would clearly show that the objection filed by the appellants was considered by the Collector. Moreover, [Section 6](#) Declaration was made on 18.3.1992 and the award was passed on 15.3.1994. The appellants filed the writ petition only on 12.4.1994. In spite of the [Section 6](#) Declaration having been made on 18.3.1992, the appellants allowed the acquisition proceedings to go on until the award was passed. This fact clearly indicates that the appellants did not have a genuine grievance against [Section 5A](#) inquiry held by the Collector. Therefore, we are not inclined to interfere with the judgment on the grounds now advanced by the appellants.

7. As regards Civil Appeal No. 67 of 1998, the appellants did not raise any objection within a reasonable time after [Section 6](#) Declaration was made. The possession of the land itself was given to the third parties for the purpose of starting the industry. Moreover, the land of the appellants is surrounded completely by other plots which are acquired and sought to be used for industrial purposes. We do not find any justifiable ground to exclude the appellants' lands from acquisition. The Division Bench has correctly held that the appellants were not entitled to any of the reliefs prayed for in the writ petition.

16. He also relied upon the judgment in the case of



Municipal Council, Ahmednagar Vs. Shah Hyder Beig reported in (2000) 2 SCC 48, wherein it is held as follows:

17. In any event; after the award is passed no writ petition can be filed challenging the acquisition notice or against any proceeding thereunder. This has been the consistent view taken by this Court and in one of recent cases (C. Padma & Ors. v. Dy Secretary to the Govt of T.N. & Ors, reported in [1997] 2 SCC 627. This court observed as below :-

"4. The admitted position is that pursuant to the notification published under Section 4(1) of the Land Acquisition Act, 1894 (for short "the Act") in GOR No. 1392 Industries dated 17.10.1962, total extent of 6 areas 41 cents of land in Madhavaram Village, Saidapet Taluk, Chengalpattu District in Tamil Nadu was acquired under Chapter VII of the Act for the manufacture of Synthetic Rasiua by Tvl. Reichold Chemicals India Ltd., Madras. The acquisition proceedings had become final and possession of the land was taken on 10.4.1964. Pursuant to the agreement executed by the company, it was handed over to Tvl, Simpson and General Finance Co. which is a subsidiary of Reichold Chemicals India Ltd, It would appear that at a request made by the said company, 66 cents of land out of one acre 37 cents in respect of which the appellants originally had ownership, was transferred in GOMs No. 816. Industries dated 24.3.1971 in favour of another subsidiary company, Shri Rama Vilas Service Ltd., the 5th respondent Which is also another subsidiary of the company had requested for two acres 75 cents of land; the same came to be assigned on leasehold basis by the Government after resumption in terms of the agreement in GOMs No. 439 Industries dated 10.5.1985. In GOMs 546 Industries dated 30.3.86, the same came to be approved of. Then the appellants challenged the original GOMs No. 1392 Industries dated 17.10.62 contending that since the Original purpose for which the land was acquired had ceased to be in operation, the appellants are entitled to restitution of the possession taken from them. The learned Single Judge and the Division Bench have held that the acquired land having already vested in the State, after receipt of compensation by the predecessor-in-title of the appellants, they have no right to challenge the notification. Thus the writ petition and the writ appeal came to be dismissed."



Therefore, the acquisition proceedings is not vitiated on any grounds raised by the petitioner.

17. Admittedly, award has been passed as early as on 31.12.1999 in Award No.2 of 1999. Therefore, after passing the award, the petitioner cannot challenge the acquisition proceedings. Therefore, while pending the writ petition the petitioner amended prayed including the award under challenge in this writ petition. However, the petitioner duly participated in the enquiry and he had knowledge about the award passed by the respondents. Even then, the petitioner failed to challenge the award while filing the writ petition and thereafter amended the prayer by including the challenge of the award. Therefore, the writ petition is devoid of merits and liable to be dismissed.

18. Accordingly, this writ petition is dismissed. No order as to costs.

Sd/-
Deputy Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

1.The Secretary to Government
State of Tamilnadu,
Housing and Urban Development Department,
Fort St.George, Chennai-9

2.The Special Tahsildar,
Land Acquisition,
Housing Scheme Unit-I,
Coimbatore

3.The Executive Engineer and Administrative Officer,
Tamil Nadu Housing Board-Coimbatore Housing Unit,
Tatabad, Coimbatore-12.

+1cc to Mr.R.N.Amarnath, Advocate, S.R.No.45141(14/09/2021)
+1cc to the Government Pleader, S.R.No.45555

WP.No.10563 of 2013

BS (CO)
CB(14/09/2021)