



W.P.No.35799 of 2016

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.10.2022

CORAM:

THE HON'BLE **MR.JUSTICE M.DHANDAPANI**

W.P.No.35799 of 2016

and

W.M.P.No.13461 of 2017 & W.M.P.Nos. 30747 to 30750 of 2016

1. P. Bhoopalan

2. B.Nagarajan

3. B.Sekar

. . . Petitioners

Vs.

1. The State of Tamil Nadu
Rep By its Secretary
Social Welfare Department
Fort.St George, Secretariat

2. The District Collector,
Salem District,
Salem

3. The Special Tahsildar,
Adi Dravida Welfare Department
Salem

. . . Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records of the 3rd respondent pertaining to Award No.2/92-93 dated 23.08.1993 and quash the same as lapsed, illegal and direct the respondents to forbear from disturbing the possession of the petitioners lands situated in S.No.99/3A admeasuring 1.33 acres which was sought to be acquired by G.O.Ms.2532 of Social Welfare Department dated 08.12.1987.

For Petitioners : M/s.N.Senthil Kumar

For Respondents : Mr.M.Muthusamy,
Government Advocate

ORDER

The present petition has been filed seeking to quash the impugned order dated 23.08.1993 which was passed by the 3rd respondent and to restrain the respondents from disturbing the possession of the petitioners over the lands situated in S.No.99/3A admeasuring 1.33 acres which was sought to be acquired by G.O.Ms.2532 of Social Welfare Department dated 08.12.1987.



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2. It is the case of the petitioners that the subject lands originally belonged to one Raman son of Vaiyapuri Padayachi, who is the predecessor of the petitioners' vendor. Thereafter, the petitioners purchased the above said property from their vendor namely Arun who is the son of one Late Kulandaivelu, for valid sale consideration vide sale deed dated 23.11.2011. The said land was acquired vide notification issued under Section 4(1) of the Land Acquisition Act, 1894 under G.O.Ms.No.3320 dated 24.12.1986 and Declaration declared under Section 6 of the Act was issued vide G.O.Ms.No.2532 dated 08.12.1987, Social Welfare Department. However, the above said acquisition was made even prior to the purchase of the land by the petitioner's vendor. Challenging the said acquisition, W.P.No.835 of 1988 came to be filed by the land owners which was dismissed by this Court, against which, W.A.No.1735 of 2001 was filed before the Division Bench of this Court, which was also dismissed. Challenging the same, Civil Appeal No.8235 of 2009 was filed before the Hon'ble Apex Court and the same was dismissed.



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3. Pursuant to the said Acquisition, in the year 1993, Award came to be passed in Award No.2/92-93 and challenging the said Award, W.P.No.13456 of 2013 was filed before this Court and the same was dismissed. Though the said acquisition was made in the 1987, however, till date, possession has not been taken by the respondents which is contrary to Section 11-A of the Act. While being so, the petitioners who are the subsequent purchasers of the above lands, were issued with notice dated 31.08.2016 to vacate and handover the possession of the vacant land and subsequently, another notice came to be issued to the petitioners on 21.09.2016 to handover the possession of the land. Challenging the said notice, the present petition has been filed.

4. Learned counsel for the petitioners submitted that though the acquisition was made, however, till date, neither possession was taken nor the compensation amount was paid to the petitioners or their predecessors in title. Further, the Award was also passed after a lapse of two years from the date of Acquisition, therefore, the said Award stands lapsed in terms of Section 11-A of the Land Acquisition Act, 1894 and that no mutation has



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been effected in the revenue records with regard to the said Acquisition. In such view of the matter, the impugned notice dated 21.09.2016 needs interference of this Court and the same is liable to be quashed.

5. Learned Government Advocate appearing for the respondents submitted that, subsequent to the acquisition, Award came to be passed in year 1993 and the compensation amount was deposited in the Competent Sub-Court, Salem. However, the petitioners being the subsequent purchasers of the land belonging to the Government, have no *locus standii* to question the acquisition as they have purchased the said land only in the year 2011, after a lapse of more than a decade from the date of passing of the Award. The petitioners have no right to challenge the present impugned notice as the same has come to be issued pursuant to the above Acquisition. Therefore, the claim of the petitioners cannot be considered and the present impugned notice issued by the 3rd respondent does not require any interference. Hence, this Writ Petition is liable to be dismissed.



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6. Heard the learned counsel appearing on either side and perused the materials available on record.

7. The facts in the issue is not in dispute. The petitioners are subsequent purchasers and the right of the subsequent purchasers to question the acquisition proceedings has been dealt with by this Court in case of ***B.Nagaraj – Vs – State of Tamil Nadu & Ors. (W.A. Nos.1204 of 2022, etc. Batch – Dated 09.06.2022)*** wherein the Division Bench of this Court has held as under:-

“7. In that regard, the judgment of the Apex Court in the case of Meera Sahni Vs. Lt.Governor of Delhi (reported in 2008 (9) SCC 177), is also relevant, wherein it was held that a person entering to the sale or any injunction of the land under acquisition after issuance of the Notification under Section 4(1) of the Act of 1894, has no right to challenge the acquisition proceedings or seek lapse of the proceedings. The relevant paragraphs of the said judgment, are quoted hereunder for ready reference:

"17. When a piece of land is sought to be acquired, a notification under Section 4 of Land Acquisition Act is required to be issued by the State Government strictly in accordance with law. The said notification is also required to be followed by a declaration to be made under Section 6 of the Land Acquisition Act and with the issuance of such a notification any encumbrance



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created by the owner, or any transfer made after the issuance of such a notification would be deemed to be void and would not be binding on the government. A number of decisions of this Court have recognized the aforesaid proposition of law wherein it was held that subsequent purchaser cannot challenge acquisition proceedings and also the validity of the notification or the irregularity in taking possession of the land after the declaration under Section 6 of the Act.

18. In *U.P.Jal Nigam Vs. Kalra Properties (P) Ltd.* (1996 (3) SCC 124), it was stated by this Court that (SCC p.126, para 3):

"3. ...Having regard to the facts of this case, we were not inclined to further adjourn the case nor to remit the case for fresh consideration by the High Court. It is well settled law that after the notification under Section 4(1) is published in the Gazette any encumbrance created by the owner does not bind the Government and the purchaser does not acquire any title to the property."

19. In *Sneh Prabha Vs. State of U.P.* (1996 (7) SCC 426), it is stated as under (SCC p.430, para 5):

"5. ...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 point out and an implement to anyone to encumber the land acquired thereunder. It authorizes the designated officer enter upon the land to do preliminaries etc. Therefore, any



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alienation of the 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, title 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."

8. In the light of the ratio propounded by the Apex Court on the issue, so far as the writ petitioners are concerned, they have no right to challenge the Award issued in the year 1994, on the ground that it was after two years of the Declaration under Section 6 of the Act of 1894, having purchased the land much subsequent to the Notification issued under Section 4(1) of the Act of 1894."

(Emphasis Supplied)

8. In the case on hand, the purchase having been made after a lapse of more than one decade from the date of passing of the award, the petitioners have no *locus standii* to question the present impugned notice. Hence, the prayer sought for in this Writ Petition cannot be granted. However, liberty is granted to the petitioners to file appropriate application before the competent civil Court seeking disbursement of the compensation amount. If the petitioners have any grievance with regard to the compensation amount, they are at liberty to work out their remedy in the manner known to law.



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WEB COPY 9. Accordingly this Writ Petition is dismissed with the aforesaid direction. No costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes / No

Internet : Yes / No



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M.DHANDAPANI, J.

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To

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State of Tamil Nadu
Social Welfare Department
Fort.St George, Secretariat
2. The District Collector,
Salem District,
Salem
3. The Special Tahsildar,
Adi Dravida Welfare Department
Salem

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