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W.P.Nos.19005, 19007 to 19010 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.08.2022

CORAM:

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

W.P.Nos.19005, 19007 to 19010 of 2018

and

W.M.P.Nos.22401, 22405, 22406, 22408 & 22409 of 2018

1. P.Thirunavukkarasu
2. K.Jayakumar
3. T.Mahalakshmi
4. A.R.Lakshmanan
5. A.Arun ...Petitioners in W.P.No.19005 of 2018

1. T.Prema
2. Umamageshwari ...Petitioners in W.P.No.19007 of 2018

V.Jayachandran ...Petitioner in W.P.No.19008 of 2018

1. Dhanabakkiam
2. Santhi ...Petitioners in W.P.No.19009 of 2018

C.Santhi ...Petitioner in W.P.No.19010 of 2018

Vs.

1. The Government of Tamil Nadu,
Rep. by its Secretary,
Department of Urban Development,



W.P.Nos.19005, 19007 to 19010 of 2018

Fort, St. George, Chennai-600 009.

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2. The Chairman and Managing Director,
Tamil Nadu Housing Board,
Nandanam, Chennai-600 035.

3. The Special Tahsildar (Land Acquisition),
Housing Scheme No.II,
Coimbatore-641 018.

...Respondents in all W.Ps.

Prayer in W.P.No.19005 of 2018: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Declaration, declaring that the land acquisition proceedings initiated and processed by respondents by issuance of a Notification under Section 4(1) of the Land Acquisition Act in G.O.Ms.758, Housing and Urban Development Department dated 03.05.1991 and Declaration under Section 6(1) of the Land Acquisition Act in G.O.Ms.No.288, Housing and Urban Development Department dated 04.06.1992 and culminating in Award No.10 of 94 in Ref.No.917 of 90 for Kalapatti Neighbourhood Scheme has lapsed by virtue of the acts and omissions of the respondents as well as by operation of Section 24 of Central Act 30 of 2013 and consequently directing the respondents and their officials to refrain from interfering with the possession and enjoyment of the petitioners over land measuring 1 acre and 11 cents in S.F.Nos.963/2A1.

Prayer in W.P.No.19007 of 2018: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Declaration, declaring that the land acquisition proceedings initiated and processed by respondents by issuance of a Notification under Section 4(1) of the Land Acquisition Act in G.O.Ms.758, Housing and Urban Development Department dated 03.05.1991 and Declaration under Section 6(1) of the Land Acquisition Act in G.O.Ms.No.288, Housing and Urban Development Department dated 04.06.1992 and culminating in Award No.10 of 94 in Ref.No.917 of 90 for Kalapatti Neighbourhood Scheme has lapsed by virtue of the acts and omissions of the respondents as well as by operation of Section 24 of Central



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Act 30 of 2013 and consequently directing the respondents and their officials to refrain from interfering with the possession and enjoyment of the petitioners over land measuring 1 acre and 11 cents in S.F.Nos.963/2A2 and 963/2B1.

Prayer in W.P.No.19008 of 2018: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Declaration, declaring that the land acquisition proceedings initiated and processed by respondents by issuance of a Notification under Section 4(1) of the Land Acquisition Act in G.O.Ms.758, Housing and Urban Development Department dated 03.05.1991 and Declaration under Section 6(1) of the Land Acquisition Act in G.O.Ms.No.288, Housing and Urban Development Department dated 04.06.1992 and culminating in Award No.10 of 94 in Ref.No.917 of 90 for Kalapatti Neighbourhood Scheme has lapsed by virtue of the acts and omissions of the respondents as well as by operation of Section 24 of Central Act 30 of 2013 and consequently directing the respondents and their officials to refrain from interfering with the possession and enjoyment of the petitioners over land measuring 15 cents in S.F.Nos.963/3 of Kalapatti Village, Coimbatore Taluk and District.

Prayer in W.P.No.19009 of 2018: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Declaration, declaring that the land acquisition proceedings initiated and processed by respondents by issuance of a Notification under Section 4(1) of the Land Acquisition Act in G.O.Ms.758, Housing and Urban Development Department dated 03.05.1991 and Declaration under Section 6(1) of the Land Acquisition Act in G.O.Ms.No.288, Housing and Urban Development Department dated 04.06.1992 and culminating in Award No.10 of 94 in Ref.No.917 of 90 for Kalapatti Neighbourhood Scheme has lapsed by virtue of the acts and omissions of the respondents as well as by operation of Section 24 of Central Act 30 of 2013 and consequently directing the respondents and their officials to refrain from interfering with the possession and enjoyment of the petitioners over land measuring 19 ½ cents in S.F.Nos.963/3 of Kalapatti



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Village, Coimbatore Taluk and District.

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Prayer in W.P.No.19010 of 2018: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Declaration, declaring that the land acquisition proceedings initiated and processed by respondents by issuance of a Notification under Section 4(1) of the Land Acquisition Act in G.O.Ms.758, Housing and Urban Development Department dated 03.05.1991 and Declaration under Section 6(1) of the Land Acquisition Act in G.O.Ms.No.288, Housing and Urban Development Department dated 04.06.1992 and culminating in Award No.10 of 94 in Ref.No.917 of 90 for Kalapatti Neighbourhood Scheme has lapsed by virtue of the acts and omissions of the respondents as well as by operation of Section 24 of Central Act 30 of 2013 and consequently directing the respondents and their officials to refrain from interfering with the possession and enjoyment of the petitioners over land measuring 4085 ½ Sq.Feet in S.F.Nos.963/3 of Kalapatti Village, Coimbatore Taluk and District.

In all W.Ps.:-

For Petitioners : Mr.G.Sankaran

For Respondents : Mr.G.Krishnaraja, AGP, for R1 & R3
Mr.D.Murugan, for R2

COMMON ORDER

Since the issue involved in all these Writ petitions are similar in nature, they are disposed of by way of this common order.

2. The petitioners have filed these Writ petitions to avail the benefit under Section 24(2) of the Central Act 30 of 2013, on the ground that,



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though the respondents have initiated the acquisition proceedings against the petitioners' lands for the purpose of Kalapatti Neighborhood Scheme and issued Notification under Section 4(1) of the said Act on 03.05.1991, Declaration under Section 6(1) on 04.06.1992 and subsequently passed an Award in Award No.10 of 94 in Ref.No.917 of 90, however, till date, neither the possession was taken nor the compensation was paid or deposited in the name of either the petitioners or their vendors. Hence, the petitioners have come up with these Writ petitions seeking to declare the entire acquisition proceedings as lapsed in terms of Section 24 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and for a consequential direction to the respondents and their officials to refrain from interfering with the possession and enjoyment of the petitioners over their respective lands.

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

4. Though very many grounds have been raised by the learned counsel either side at the time of arguments, however, as rightly pointed out by the



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Additional Government Pleader, the issue involved in all these Writ petitions are no longer *res integra*, as the petitioners herein are subsequent purchasers and when the similar issued fell into consideration of the Hon'ble Division Bench of this Court, the Division Bench of this Court in the case of ***B.Nagaraj – Vs – State of Tamil Nadu & Ors. (W.A. Nos.1204 of 2022, etc. Batch – Dated 09.06.2022)*** stares writ large on face of record, as in the said case, the Division Bench has categorically held that, a purchase made subsequent to a Notification u/s 4 (1), the said purchaser does not have any right to question the acquisition process. For better appreciation, the relevant portion of the said order is quoted hereunder :-

“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.



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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 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



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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 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)

5. From the ratio laid down above, it is clear that a purchase subsequent to the notification u/s 4 (1), the purchaser has no locus to question the acquisition. In the case on hand, it is further more bad, as the purchase has been made after the award. That being the case, the petitioners



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cannot question the acquisition process and also cannot claim that the acquisition process has lapsed as neither possession has been taken nor compensation has been paid.

6. For the reason afresaid, these Writ petitions are dismissed. No costs. Consequently, conencted Miscellaneous petitions are closed.

11.08.2022

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Index : Yes/No

Speaking order : Yes/No

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Rep.by its Secretary,
Department of Urban Development,
Fort, St. George,
Chennai-600 009.
2. The Chairman and Managing Director,
Tamil Nadu Housing Board,
Nandanam,
Chennai-600 035.
3. The Special Tahsildar (Land Acquisition),
Housing Scheme No.II,

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