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Writ Petition No.29426 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.09.2022

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

Writ Petition No.29426 of 2014

and

M.P.No.1 of 2014

S.Vijay

Vs.

... Petitioner

1. The Government of Tamilnadu,
Rep.by the Secretary to Government,
Housing & Urban Development,
For St.George, Chennai – 600 009.
2. The Managing Director,
The Tamil Nadu Housing Board,
No.33, Anna Salai, Nandanam,
Chennai – 600 034.
3. The Executive Engineer,
The Tamil Nadu Housing Board,
Tatabad, Coimbatore – 641 012.
4. The Special Tahsildar (Land Acquisition),
Housing Scheme No.III,
Coimbatore District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Declaration that the Land Acquisition proceeding initiated for implementation of housing development Scheme (Hosur) in the award no.1/88 dated 22.01.1988 passed under Land Acquisition Act, 1894,



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shall be deemed to have been lapsed by virtue of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (the Central Act, 2013), in respect of the petitioner's property situated in T.S.No.10/1 and T.S.No.11 measuring 6 cents in Ganapathy Village, Coimbatore Taluk, Ganapathy Sub-registration District, Coimbatore District.

For Petitioner : M/s.Labrar MD Abdullah
For R1 and R4 : Mr.U.Bharanidharan,
Additional Government Pleader
For R2 and R3 : Mr.D.Murugan
Standing counsel

ORDER

The present Writ Petition is filed seeking for issuance of a Writ of Declaration to declare the Land Acquisition proceedings initiated for implementation of housing development Scheme (Hosur) in the Award No.1/88 dated 22.01.1988 passed under Land Acquisition Act, 1894, shall be deemed to have been lapsed by virtue of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (in short 'Act, 2013'), in respect of the petitioner's property situated in T.S.No.10/1 and T.S.No.11 measuring 6 cents in Ganapathy Village, Coimbatore Taluk, Ganapathy Sub-registration District, Coimbatore District.



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2. It is the case of the petitioner that originally the above said properties situated in said village belonged to one Marakkal and the petitioner is the subsequent purchaser who purchased the above said properties from K.Sukumaran in the year 2013 vide Sale Deed dated 04.04.2013. Prior to the said purchase of the above said properties, the fourth respondent initiated proceedings u/s 4(1) of the Land Acquisition Act, 1984 (hereinafter referred to as 'Act, 1894') was issued on 07.03.1983 and the declaration u/s 6 of the Act, 1894 was issued on 10.02.1986, followed by the Award, dated 22.01.1988. The said Award lapsed as per Section 24(2) of the Act, 2013 as till date neither the compensation was deposited in the Sub-Court nor the possession was taken over by the respondents. Hence, the present Writ Petition has been filed seeking the aforesaid relief.

3. Learned counsel for the petitioner submitted that the main ground to challenge the acquisition proceedings is that neither the possession of the entire lands were taken over by the acquisition authority nor the compensation was paid to the petitioner or deposited in the Sub-Court. Hence, as per the Act, 2013 the entire acquisition proceedings would automatically stand lapsed for the aforesaid reasons. Therefore, the acquisition proceedings is liable to be quashed.



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4. Learned Additional Government Pleader appearing for the respondents 1 and 4 submitted that the petitioner had purchased the aforesaid properties subsequent to the Notification u/s 4(1) of the Act, 1984. Hence, a purchaser after the Notification u/s Section 4(1) of the Act, 1984 does not acquire any right to challenge the acquisition proceedings in terms of Section 24(1) of the Act, 2013. Therefore, this Writ Petition is liable to be dismissed.

5. Learned Standing counsel appearing for the respondents 2 and 3 submitted that though the petitioner purchased the above said properties in the year 2013, Award was passed in the year 1988. However, the petitioner purchased the aforesaid properties after a lapse of 25 years of passing Award. It is also a fact that the petitioner is the subsequent purchaser and hence he cannot claim remedy u/s 24(2) of the Act, 2013. Accordingly, he prayed for dismissal of the present Writ Petition.

6. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

7. In ***B.Nagaraj – Vs – State of Tamil Nadu & Ors. (W.A.***



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Nos.1204 of 2022, etc. Batch – Dated 09.06.2022) a Division Bench of this

Court has dealt with similar issue pertaining to a subsequent purchaser and 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. 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 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)

8. 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 petitioner being a subsequent purchaser 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, more so the purchase itself is after 25 years from the date of award.



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9. Accordingly this Writ Petition is dismissed. No costs.

Consequently, connected miscellaneous petition is closed.

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Index : Yes / No

Speaking order / Nonspeaking order

RAP

To

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M.DHANDAPANI, J.



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