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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.28354 of 2017
and W.M.P.No.2984 of 2018

1.Ramesh
2.Kempaiah .. Petitioners

Versus

1.The District Collector
Krishnagiri District

2.The Tahsildar
Denkankotta Taluk
Krishnagiri District. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, forbearing the respondents from interfering with the peaceful possession and enjoyment of the property of the petitioner, situate in S.No.51/2 measuring 0.068.0 hectares in Kottai Ulimangalam Revenue Village of Denkanikottai Taluk, attached to Denkanikottai Sub-Registration District, Krishnagiri District.

For Petitioner : Mr.V.Raghavachari

For Respondents : Mr.U.Baranidharan
Special Government Pleader

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ORDER

This petition has been filed seeking to forbear the respondents from interfering with the peaceful possession and enjoyment of the property of the petitioner, situate in S.No.51/2 measuring 0.068.0 hectares in Kottai Ulimangalam Revenue Village of Denkanikottai Taluk, attached to Denkanikottai Sub-Registration District, Krishnagiri District.

2. The case of the petitioner is that the petitioner claims to be the owner of the property situated in S.No.51/2 measuring 0.068.0 hectares in Kottai Ulimangalam Revenue Village of Denkanikottai Taluk, attached to Denkanikottai Sub-Registration District, Krishnagiri District by virtue of purchase from Mr.P.Narayanappa vide sale deed in Doc.No.7294/2015. While so, the official respondents have initiated proceedings in vacating the petitioner from the subject land. Hence, this petition.

3. The learned Additional Government Pleader submitted that the disputed land is acquired under the Land Acquisition Act during the year 1997 for the provision of free house sites to Adi Dravidar of the Ulimangalam Village and an Award was also passed in Award No.17/96-97 dated 24.09.1997, wherein, the

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land owner refused to receive the compensation. Hence, a compensation amount of Rs.23,860/- was deposited in Sub-Court, Hosur under Section 31 of the Land Acquisition Act. It is further submitted that the subject land was subsequently purchased by the petitioner herein viz., after passing the award. Hence, he seeks for dismissal of this writ petition.

4. Heard the learned counsel appearing for both sides and perused the materials placed on record. Admittedly, the disputed land is acquired under the Land Acquisition Act for the provision of free house sites to Adi Dravidar of the Ulimangalam Village and an award was also passed in Award No.17/96-97 dated 24.09.1997, wherein, the land owner refused to receive the compensation. Hence, a compensation amount of Rs.23,860/- was deposited in Sub-Court, Hosur under Section 31 of the Act. It is to be noted that the petitioner had purchased the disputed land subsequent to the passing of award.

5. The decision of 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

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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*

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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)

From the ratio laid down above, it is clear that a purchase subsequent to the

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notification u/s 4 (1), the purchaser has no locus to question the acquisition.

6. 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 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.

7. Hence, for the reasons stated above, the Writ petition is dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

8. In view of the above order, the petition seeking amendment of prayer cannot be granted and the same is liable to be dismissed. Hence, W.M.P.No.2983 of 2018 in W.P.No.28354 of 2017 is hereby dismissed.

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Index:Yes/No
Internet:Yes/No
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To

1.The District Collector
Krishnagiri District

2.The Tahsildar
Denkankotta Taluk
Krishnagiri District.

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