



W.A.No.600 of 2017

W.A.No.600 of 2017

D.KRISHNAKUMAR, J.

AND

P. B.BALAJI, J.

This matter is posted today under the caption " for being mentioned ".

2. Heard the learned counsel appearing for the appellants as well as the respondents.

3. Both the counsel clarified that the original land owners are the respondents 2 to 5 herein and to that effect, necessary correction may be carried out at paragraph No.7 of the judgment passed in W.A.No.600/2017 dated 02.08.2023.

4. Accepting their submission, paragraph No.7 of the above judgment shall read as follows.

" 7. In the light of decisions cited supra, the appeal filed by the appellant department is sustainable and the order passed by the learned Single Judge is liable to be set aside. However, liberty is granted to the original land owners, who are the respondents 2 to 5 herein, to approach the authority concern to seek remedy."



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mst

5. In other respects, the earlier order dated 02.08.2023 passed in W.A.No.600/2017 shall stand unaltered.

(D.K.K., J.) (P.B.B., J.)

30.08.2023

mst

Note: Registry is directed to issue a fresh order copy, after making necessary corrections.

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W.A.No.600 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 2.8.2023

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
AND
THE HONOURABLE MR.JUSTICE P.B.BALAJI

W.A.No.600 of 2017 and
C.M.P.No.8369 & 8370 of 2017

- 1 The Government of Tamilnadu
Rep by its Secretary to Government,
Highways Department, Fort St.George,
Secretariat, Chennai.
- 2 The Revenue Divisional Officer,
Office of The Revenue Divisional Officer,
Tambaram Kancheepuram District. ... Appellants

Vs.

- 1 V.Prabhakar Reddy
- 2 V.Lohith Kumar
- 3 Radhika Lohith
- 4 L.Manoj Kumar
- 5 L.Haritha ... Respondents

Writ Appeal filed under Section 15 of Letters Patent to set aside the order passed in W.P.No.14430/2015 dated 05.04.2016 on the file of this Court.

For Appellant : Mr.G.Silambannan, A.A.G.,
Asst. by Mrs.Geetha Thamaraiselvam,
Spl. Govt. Pleader
For Respondents-1 : Mr.N.C.Ashok Kumar
For Respondent-2 to 5 : Mr.T.V.Ramanujam, Sr.Counsel for



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Mr.S.Prem Auxilion Raj

ORDER

(Order of the Court was delivered by **D.KRISHNAKUMAR, J.**)

The instant writ appeal is filed by the Government as against the order passed by the Writ Court in W.P.No.14430/2015 dated 05.04.2016.

2. According to the appellants, the writ petitioner V.Prabhakar Reddy is a subsequent purchaser of the property in possession after the land acquisition proceedings initiated by the appellants and he has purchased the said property measuring to an extent of 1.96 acres by registered sale deed dated 5.10.2005 in document No.5763 of 2005. The property originally stands in the name of the 6th respondent. The private respondents in the writ petition have not filed writ petition before this Court. The writ petitioner has filed an application to transpose of the aforesaid respondents 3 to 6 in the writ petition /respondents 2 to 5 in the instant writ appeal.

3. The learned Additional Advocate General relied on the judgment in ***Shiv Kumar and Ors. vs. Union of India (UOI) and Ors. [2019 (10) SCC 229]*** wherein the Hon'ble Supreme Court has held that the writ petitioner being a subsequent purchaser, purchased the property after the land acquisition

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proceedings initiated by the department, cannot claim the property on the basis

of void transaction. The Hon'ble Supreme Court has further held as follows:

"(i) The Act of 2013 presupposes that a person is required to be rehabilitated and resettled. Such a person who has purchased after Section 4 notification as sale deed was void under the Act of 1894, could not claim rehabilitation and resettlement as per policy envisaged under the Act of 2013, as his land had not been acquired, but he had purchased a property which had already been acquired by the State Government, he could not claim even higher compensation, as per proviso to Section 24(2) under the Act of 2013. An original landowner could not be deprived of higher value under the Act of 2013, which higher compensation was not so contemplated when the void transaction of sale had been entered, and right is conferred under proviso to Section 24(2) on recorded owners under Act of 1894.

(ii) Given that, the transaction of sale, effected after Section 4 notification, was void, is ineffective to transfer the land, such incumbents could not invoke the provisions of Section 24 of Act. As the sale transaction did not clothe them with the title when the purchase was made, they could not claim possession and challenge the acquisition as having lapsed under Section 24 of Act by questioning the legality or regularity of proceedings of taking over of possession under the Act of 1894. It would be unfair and profoundly unjust and against the policy of the law to permit such a person to claim resettlement or claim the land back as envisaged under the Act of 2013. When he had



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not been deprived of his livelihood but was a purchaser under a void transaction, the outcome of exploitative tactics played upon poor farmers who were unable to defend themselves.

(iii) 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 could not be made, based on a void transaction nor declaration could be sought under Section 24(2) of Act by such incumbents to obtain the land. The declaration that acquisition had lapsed under the Act of 2013 was to get the property back whereas, the transaction once void, was always a void transaction, as no title could 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 did not confer any right on purchaser whose sale was ab initio void. Such void transactions were not validated under the Act of 2013. No rights were conferred by the provisions contained in the 2013 Act on such a purchaser as against the State. [20]."

4. This Court has already decided the identical issue in ***V.Anantharaman Vs. The Chennai Metropolitan Development Authority, Rep. by its Member Secretary, No.1, Gandhi Irwyn Road, Egmore, Chennai and another [W.A.No.1117 of 2020 dated 26.07.2023]*** wherein this Court has held that it is trite law that subsequent purchaser cannot have any right to



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challenge the land acquisition proceedings.

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5. The Hon'ble Supreme Court in a landmark decision in ***Indore Development Authority v. Manoharlal and Others [(2020) 8 SCC 129]*** has held as under:

366.3. 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 acquisition proceedings under Section 24(2) of the 2013 Act 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.”

6. It is also useful to refer the judgment of the Hon'ble Supreme Court in the case of ***V. Chandrasekaran and Ors. vs. The Administrative Officer and Ors. Reported in MANU/SC/0751/2012***, wherein the Hon'ble Supreme Court observed with regard to the validity of challenging the acquisition proceedings subsequent to issuance of 4(1) Notification. The Hon'ble Supreme Court has held as follows:

'A person who purchases land subsequent to the



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issuance of a Section 4 Notification with respect to it, is not competent to challenge the validity of the acquisition proceedings on any ground whatsoever, for the reason that the sale deed executed in his favour does not confer upon him, any title and at the most he can claim compensation on the basis of his vendor's title."

7. In the light of decisions cited supra, the appeal filed by the appellant department is sustainable and the order passed by the learned Single Judge is liable to be set aside. However, liberty is granted to the original land owner who is 6th respondent herein, to approach the authority concern to seek remedy.

8. Consequently, the writ appeal stands allowed. No costs. Connected miscellaneous petitions are closed.

(D.K.K.J.) (P.B.B.J.)
2.8.2023

Speaking/Non Speaking order

Index: Yes

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To

- 1 The Secretary to Government, Government of Tamilnadu
Highways Department, Fort St.George, Secretariat, Chennai.
- 2 The Revenue Divisional Officer,
Office Of The Revenue Divisional Officer.
Tambaram Kancheepuram District.



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Dated: 2.8.2023