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W.P.No.34800 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.06.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.34800 of 2022

- 1.C.Mani
- 2.K.Anbazhagan
- 3.K.Manikandan
- 4.R.Venkatesan
- 5.R.Poongodi
- 6.A.Dhanalakshmi
- 7.S.Lakshmi
- 8.K.Natarajan
- 9.P.Vemban
- 10.V.Mohanambal
- 11.P.Jothi
- 12.S.Lakshmi
- 13.R.Venkatesan
- 14.V.Nagarajan
- 15.N.Manikandan
- 16.B.N.Sharmila
- 17.N.Elumalai
- 18.K.Amutha



19.K.Vimala

20.K.Bhuvaneshwari

21.K.Haribarath

22.K.Elango

23.E.Anjala

24.S.Dhanalakshmi

25.R.Paramasivam

... Petitioners

Vs.

1.The Tahsildar,
Maduravoyal Taluk,
Maduravoyal,
Thiruvallur District.

2.Tamil Nadu Housing Board,
Rep. by its Managing Director,
493, Anna Salai,
Nandanam,
Chennai – 600 035.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondent to issue the patta to the property situated to the plot owners situated in the layout “Bhuvaneshwari Nagar” bearing Survey No.142/3, Nerkundram Village, Ambattur Taluk, Tiruvallur District (Now Chennai) without insisting “No Objection Certificate” from the second respondent by considering the 1st to 12th petitioners applications for patta dated 20.09.2021, 13th to 21st petitioners applications 21.09.2022 and 22nd to 25th petitioners applications dated 02.08.2022.



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For Petitioners	: Mr.Gouthaman For Ms.M.Rakhi
For R1	: Mr.D.Ravichander Special Government Pleader
For R2	: Mr.A.M.Ravidranath Jayapal [For TNHB]

ORDER

The writ on hand has been instituted seeking direction to the respondents to issue patta to the property situated in the layout “Bhuvaneshwari Nagar” bearing Survey No.142/3, Nerkundram Village, Ambattur Taluk,Tiruvallur District (Now Chennai) without insisting “No Objection Certificate” from the Tamil Nadu Housing Board.

2. The petitioners state that they are the absolute owners of the property situated at Bhuvaneshwari Nagar layout bearing Survey No.142/3, Nerkundram Village, Ambattur Taluk, Tiruvallur District (Now Chennai). They are in possession and enjoyment of the subject property. However, no patta has been issued to the petitioners in respect of their properties. The petitioners are in possession of the relevant documents including Sale Deed,



Property Tax, Electricity Board Connection details, to prove their title over the property. The petitioners have submitted online applications along with the relevant documents to the 1st respondent / Tahsildar on 20.09.2021, 21.09.2021 and 02.08.2022, requesting the 1st respondent to issue patta. The 1st respondent insisted the petitioners to obtain “No Objection Certificate” from the Tamil Nadu Housing Board, since the lands were acquired under the Land acquisition Act.

3. The petitioners state that originally Section 4(1) notification was issued for acquisition of lands on 11.06.1975 and 09.06.1978 in G.O.RT.No.124 Housing, dated 08.05.1975 and G.O.Ms.Nos.996, 993, 994 Housing, dated 07.06.1978. Challenging the Notification issued under Section 4(1) and 6 of the Land Acquisition Act. The original land owners preferred writ petitions in W.P.Nos.8370 and 8371 of 1986 and the Hon'ble Division Bench of this Court, by order dated 21.01.1988 allowed the writ petitions and quashed the declaration under Section 6 of the Act and directed the authorities to conduct an enquiry under Section 5A of the Act afresh. However, no fresh enquiry was conducted. Thereafter, the original owners filed W.P.No.18379 of 1991, challenging the Section 4(1)



notification dated 11.06.1995. The said notification was quashed by this Court by order dated 01.07.1999. That being the factum, the petitioners state that they are entitled for patta and the 1st respondent ought not to have insisted upon them to produce “No Objection Certificate” from the 2nd respondent. Thus, the petitioners are constrained to move the present writ petition.

4. The 2nd respondent objected the writ petition by stating that the petition mentioned lands in Survey Nos.142/3 in Nerkundram Village, Maduravoyal Taluk, Tiruvallur District (now it is in Chennai District) was acquired by the Tamil Nadu Housing Board through Land Acquisition Act 1894. He would further state that the notification under section 4(1) of the Land Acquisition Act was approved by the Government vide [G.O.RT.No.124](#) dated 08.05.1975 for implementing “K.K.Nagar Further Extension Scheme” and subsequently the Draft Declaration under section 6 of Land Acquisition Act was approved by Government vides [G.O.Ms.No.993](#) dated 07.06.1978 and an Award was passed vide No.1/86 dated 30.05.1986 by Land Acquisition Officer and the same was taken over by Tamil Nadu Housing Board on 25.07.1986.



5. The owners / interested persons as per the 4(1) Notification. Draft Declaration under Section 6 of the Land Acquisition Act and the Award for the subject land in S.No.142/3 is as follows:

<i>Survey No.</i>	<i>Extent</i>	<i>Ex-Land Owner name as per 4(1) Notification GO(R) No.124 dated 08.05.1975</i>	<i>Ex-Land Owner name as per 6DD GO(R) No.993 dated 07.06.1978</i>	<i>Award 1/86 dated 30.05.1986</i>
142/3	1.20 acres	Issac, Manickam, Daniel and P.Chandran	Issac son of Mosai, Manickam, Daniel, Rathinam and R.Chandran	1.Issac 2.Daniel 3.Rathinavel 4.Sigamani 5.Ramana w/o Jebamani 6.Selvi Vela D/o. Jebamani 7.Jegan S/o.Jebamani 8.R.Chandran.

6. The Tahsildar further stated in the counter affidavit that as per award “the land registered in the name of Issac, Manickam, Daniel and Rathinavel sons of Mari vide Patta No.181. At the time of award, Mrs.Manickam was no more, leaving behind his legal heirs namely Jebamani and Sigamani. One Mr.Jebamani S/o Manickam expired on 1984 leaving behind his legal heirs Ramana W/o Jebamani and Selvi Vela D/o. Jebamani and Jegan S/o. Jebamani. Mr. R.Chandran has been included as



interested person under Draft Declaration. The registered holders and interested persons appeared for award enquiry. The person, who appeared for enquiry has not revealed anything about the interest got by the said R.Chandran over this land. Hence the enact share could not be apportioned and so the entire compensation payable to this land will be deposited into the City Civil Court under Section 31(2) of the Land Acquisition Act and a reference to Court will be made under section 30 of the Land Acquisition Act”.

7. The petitioners have relied upon the judgment in W.P.No.8370 and 8371 of 1986. Tmt.Ponnammal has filed [W.P.Nos.8370](#) and 8371 of 1986, through her Power of Attorney agent namely T.R. Viswanathan praying to issue a 'Writ of Certiorari' or any other appropriate Writ, order or Direction in the nature of a Writ calling for the records in G.O.R.No.124, Housing dated 08.05.1975 published on 11.06.1975 and [G.O.Ms.No.996](#), 993 and 994, Housing dated 07.06.1978 published on 09.06.1978 on the file of the 1st respondent (The State of Tamil Nadu represented by Commissioner and Secretary of Government Housing and Urban Development Department) to quash the notification issued under Section 4(1) and 6 of the Land



Acquisition Act, 1894 in respect of the land of the petitioners herein bearing S.No.284/1A, 373/2A, 373/2B, 374/2 and 375 measuring in all 10.73 acres at village No.100 Nerkundram without impleading the Tamil Nadu Housing Board (TNHB), even after passing of Award No.1/86, dated 30.05.1986, The said writ petitions were allowed on 21.01.1988 and the common order as follows:

“Since the petitioner in Writ petition No.8370 of 1986 claims the property under acquisition as ancestral property, the petitioner will stand allowed. The petitioner in Writ petition No.8371 of 1986 is the owner of the property concerned in that petition at the time of the Section 4(1) notification, that petition will also stand allowed.”

8. Subsequently, the same Writ Petitioner Tmt.Ponnammal in W.P.No.8371 of 1986 preferred a writ petition in W.P.No.18379 of 1991 challenging Section 4(1) Notification dated 11.06.1975 in respect of her lands in S.No.284/1A, 373/2A, 373/2B, 374/2 and 375, measuring in all 10.73 acres at Nerkundram Village. This Court, by order dated 01.07.1999 quashed the Section 4(1) Notification dated 11.06.1975 and allowed the writ



petition. In the said writ petition order, this Court also recorded that the possession of the land was handed over to the Tamil Nadu Housing Board on 25.07.1986. The same also allowed on 01.07.1999 without impleading the Tamil Nadu Housing Board (TNHB).

From the above it is very clear that the above referred judgments are with reference to the Survey Nos.284/1A, 373/2A, 373/2B, 374/2 and 375 and it is not related to the petitioner mentioned land in Survey No.142/3. Hence, the petitioners rely on the above judgment is irrelevant and not valid.

9. The petitioners have relied upon the judgment; one Tmt. Ponnammal has filed the Writ Petition of W.P.No.17484 to 17493 of 2017 P.Balasubramanian praying that the Hon'ble Court to issue a writ of mandamus, directing the first respondent to process the petitioner's application dated 15.05.2017 along with the petitioner's representation dated 17.05.2017 and grant patta in respect of Plot No.69, Door No.14-A, 3rd Street, Sri Lakshmi Nagar, Alwarthiru Nagar, Chennai -87, measuring an extent of 1200 Sq.Ft comprised in Survey No.375, Nerkundram Village, Maduravoyal Taluk, Tiruvallur District in favour of the petitioners without insisting no objection from the 2nd respondent within a time frame.



However, the said writ petition of [W.P.No.17484 to 17493](#) of 2017 has been allowed only on 04.09.2017 and the common order as follows:

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“directing the first respondent to process the petitioners' application, dated 15.05.2017, 06.01.2016, 11.01.2016 and grant patta in respect of S.Nos.375, 373/2A respectively in Nerkundram Village, Maduravoyal Taluk, Tiruvallur District, in favour of the petitioners, without insisting No Objection Certificate from the second respondent, within a time frame.”

From the above it is very clear that the above referred judgment is in reference to the Survey Nos.375, 373/2A and it is not related to the petitioner mentioned land in S.No.142/3. Hence, the petitioners rely on the above judgment is irrelevant and not valid.

10. The respondents have mainly contended that the subject property mentioned in the writ petition in Survey No.142/3 was not covered in the judgments referred by the writ petitioners. Thus, the petitioners cannot claim any right over the property, since the land was acquired and the property vested with the Tamil Nadu Housing Board.



11. Pertinently, the original registered owners of the land in Survey No.142/3 of Nerkundram Village obtained a patta No.140 before the Land Acquisition. After the Notification under Section 4(1) of the Land Acquisition Act, it was approved by the Government and an award was passed vide No.1/86 dated 30.05.1986 by Land Acquisition Officer and the subject property was taken over by the Tamil Nadu Housing Board on 25.07.1986. Thereafter, the Tamil Nadu Housing Board has become the absolute owner of the land.

12. Admittedly, the petitioners are the subsequent purchasers, who have purchased the subject land after completion of the land acquisition proceedings and therefore, the purchase itself becomes null and void and consequently, the petitioners are not entitled to get patta without receiving “No Objection Certificate” from the Tamil Nadu Housing Board.

13. The petitioners have admittedly purchased the subject property after completion of all the land acquisition proceedings and taken over by the Tamil Nadu Housing Board on 21.03.1986. Thus, the subsequent



purchasers are the encroachers and they cannot claim any right over the property.

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14. The respondents relied on the judgment of the Hon'ble Supreme Court of India in the case of ***Thiru. Shivkumar and Another Vs. Union of India and Others, Tamil Nadu Housing Board and Other*** in ***[Civil Appeal No.8003 of 2019]*** decided on 14.10.2019. The following propositions may be culled out from the decisions of the Hon'ble Supreme Court of India as follows:

“8. It has been laid down that the purchasers on any ground whatsoever cannot question proceedings for taking possession. A purchaser after Section 4 notification does not acquire any right in the land as the sale is ab initio void and has no right to claim land under the policy.

9. When we ponder as to beneficial provisions of the 2013 Act, they also intend to benefit landowners mentioned in the notification under Section 4, not for the benefit of such purchasers who purchase the land after it has been vested in the State.



10. Sub-section (4) of Section 11 of the 2013 Act, which is akin to Section 4 of the 1894 Act, contains a prohibition that no person shall make any transaction or cause any transaction of land or create any encumbrance on land from the date of publication of such notification. Section 11(4) is extracted hereunder:

“11. Publication of preliminary notification and power of officers thereupon:

(4) No person shall make any transaction or cause any transaction of land specified in the preliminary notification or create any encumbrances on such land from the date of publication of such notification till such time as the proceedings under this Chapter are completed.

Provided that the Collector may, on the application made by the owner of the land so notified, exempt in special circumstances to be recorded in writing, such owner from the operation of this sub-section:

Provided further that any loss or injury suffered by any person due to his wilful violation of this provision shall not be made up by the Collector.”



Without seeking exemption from the Collector, there is a total prohibition on any transaction of land. Whereas the legal position under the 1894 Act was that a transaction effected after Section 4 notification was illegal and void.

11. When we consider other provisions, the “affected family” has been defined under Section 3(c) of the 2013 Act. The definition reads as under:

*“3. **Definitions.**—In this Act, unless the context otherwise requires:*

*(c) “**affected family**” includes-*

(i) a family whose land or other immovable property has been acquired;

(ii) a family which does not own any land but a member or members of such family may be agricultural labourers, tenants including any form of tenancy or holding of usufruct right, share-croppers or artisans or who may be working in the affected area for three years prior to the acquisition of the land, whose primary source of livelihood stand affected by the acquisition of land;

(iii) the Scheduled Tribes and other traditional forest dwellers who have lost any of their forest



rights recognised under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (2 of 2007) due to acquisition of land;

(iv) family whose primary source of livelihood for three years prior to the acquisition of the land is dependent on forests or water bodies and includes gatherers of forest produce, hunters, fisherfolk and boatmen, and such livelihood is affected due to acquisition of land;

(v) a member of the family who has been assigned land by the State Government or the Central Government under any of its schemes and such land is under acquisition;

(vi) a family residing on any land in the urban areas for preceding three years or more prior to the acquisition of the land or whose primary source of livelihood for three years prior to the acquisition of the land is affected by the acquisition of such land;”

The affected family includes landowners for whose benefit land is held before the acquisition. A person acquiring interest after Section 11 notification cannot be said to be included in the “affected family” at all.”



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Therefore, the Hon'ble Supreme Court of India has categorically rejected the claim of the subsequent purchasers, who have purchased the land after 4(1) Notification and 6 Draft Declaration of Land Acquisition Act.

15. The entire land acquisition proceedings instituted under Section 4(1) Notification issued in G.O.Ms.No.124, dated 08.05.1975 has not been quashed and therefore, transfer of property made by the original land owners after completion of acquisition proceedings are not binding on the Tamil Nadu Housing Board and subsequent occupiers are the encroachers.

16. The learned counsel for the petitioners relied on the counter filed by the Tahsildar, Maduravoyal stating that the Draft Declaration under 6 of the Land Acquisition Act, 1894 was quashed by the High Court in order dated 21.01.1998 in W.P.Nos.8370 and 8371 of 1986 and that the notification under Section 4(1) of the Land Acquisition Act, 1894 was quashed by the High Court in the order dated 01.07.1999 in W.P.No.18379 of 1991. Though the said notifications have been quashed by the High Court, the subject land in S.No.142/3 still stands registered in the name of



Tamil Nadu Housing Board.

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17. The relevance made on behalf of the petitioners are misconceived, since the Tahsildar has stated the facts regarding the order passed in the writ petition. The Tahsildar further admits that the subject lands in Survey No.142/3 still stands registered in the name of the Tamil Nadu Housing Board. However, the Tahsildar had failed to examine the proceedings, which were quashed by the High Court and the other proceedings based on which the Tamil Nadu Housing Board has taken over the property. Whether the judgment of the High Court covered the subject land in Survey No.142/3 had not been examined by the Tahsildar, Maduravoyal and therefore, the said contention of the counter affidavit filed by the Tahsildar, Maduravoyal is of no avail to the petitioners.

18. Beyond the facts, the acquisition proceedings were completed and the award was passed on 30.05.1986 by the Land Acquisition Officer. The land was taken over by the Tamil Nadu Housing Board on 25.07.1986. Admittedly, the petitioners were not the original owners and they are the subsequent buyers purchased the subject property after completion of the



land acquisition proceedings. Therefore, the misrepresentation or otherwise if any made by the original owners to the petitioners will not have any binding effect as far as the Tamil Nadu Housing Board is concerned. If at all the petitioners are aggrieved from and out of any fraudulent act of their vendors, the petitioners have to Sue their vendors for the purpose of redressal of their grievances. But the acquired subject land, which vests with the Tamil Nadu Housing Board, cannot be purchased by the petitioners and their purchase itself was null and void. More so, the subsequent purchases of the acquired land are not entitled to question the validity of the land acquisition proceedings. When the petitioners state that they are the subsequent purchasers and the land acquisition proceedings were initiated against the original owners and concluded, the very writ petition filed by the petitioners is not entertainable.

19. In this regard, it is relevant to rely on the judgment of the Constitution Bench of the Hon'ble Supreme Court of India in the case of ***Indore Development Authority Vs. Manoharlal*** reported in **2020 (8) SCC 129**. The Constitution Bench of the Apex Court ruled as follows:

“366.4. The expression “paid” in the main



part of Section 24(2) of the 2013 Act does not include a deposit of compensation in court. The consequence of non-deposit is provided in the proviso to Section 24(2) in case it has not been deposited with respect to majority of landholdings then all beneficiaries (landowners) as on the date of notification for land acquisition under Section 4 of the 1894 Act shall be entitled to compensation in accordance with the provisions of the 2013 Act. In case the obligation under Section 31 of the Land Acquisition Act, 1894 has not been fulfilled, interest under Section 34 of the said Act can be granted. Non-deposit of compensation (in court) does not result in the lapse of land acquisition proceedings. In case of non-deposit with respect to the majority of holdings for five years or more, compensation under the 2013 Act has to be paid to the “landowners” as on the date of notification for land acquisition under Section 4 of the 1894 Act.”

20. The Hon'ble Division Bench of the High Court of Madras in the case of ***B.Nagaraj Vs. State of Tamil Nadu*** in ***W.A.No.1204 of 2022, etc. and batch dated 09.06.2022***, held as follows:



“2. The learned counsel for the appellants submitted that the Notification under Section 4(1) of the Act of 1894 was issued on 04.12.1990 and the Declaration under Section of the Act of 1894 was issued on 27.07.1992, followed by the Award, dated 26.08.1994. The said Award lapsed as per the provisions of the Act of 1894 and Section 24(2) of the Act of 2013. However, it is in fact admitted by the learned counsel for the appellants that the Writ Petitioners purchased the lands after entering into the agreement in the year 2010, i.e., much subsequent to the Notification issued under Section 4(1) of the Act of 1894. The learned Single Judge, referring to the detailed facts of the case, dismissed the Writ Petitions after referring to the judgment of the Supreme Court in the case of Shiv Kumar Vs. Union of India (reported in 2019 (10) SCC 229). It is also after referring to the judgment of the Supreme Court in the case of Indore Development Authority Vs. Manoharlal (reported in 2020 (8) SCC 129).

5. The Apex Court, while dealing with the issue in the case of Shiv Kumar (supra), has held that the purchaser of the land, after issuance of Notification under Section 4 of the Act of 1894, has



no right to challenge the acquisition proceedings and he can, at the best, claim compensation. It is for the aforesaid, even the issue in reference to Section 24 of the Act of 2013, was also dealt with, because, any purchase, after the Notification under Section 4(1) of the Act of 1894, is termed to be “void ab~initio” and therefore, no Declaration can be sought regarding the lapse of the acquisition under the Act of 1894 or the Act of 2013. The relevant paragraphs of the judgment are quoted hereunder for ready reference:

“7.7. In M.Venkatesh Vs. BDA (2015 (17) SCC 1 : 2017 (5) SCC (Civ) 387), a three-Judge Bench has opined: (SCC pp.8-9, para 16):

“16. That brings us to the question of whether Prabhaudas Patel and other respondents in SLP (C) No.12016 of 2013 were entitled to any relief from the Court. These respondents claim to have purchased the suit property in terms of a sale deed dated 22.08.1990 i.e. long after the issuance of the preliminary notification published in July 1984. The legal position about the validity of any such sale, post~issuance of preliminary notification, is fairly well settled by a long line of the decisions of this Court. The sale in such cases is void and non est in



the eye of the law giving to the vendee the limited right to claim compensation and no more. Reference may in this regard be made to the decision of this Court in U.P.Jal Nigam Vs. Kalra Properties (P) Ltd. (1996 (3) SCC 124), wherein this Court said: (SCC: pp.126~27, para 3):

“3. It is 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. In this case, Notification under Section 4(1) was published on 24.3.1973; possession of the land admittedly was taken on 5.7.1973, and the pumping station house was constructed. No doubt, declaration under Section 6 was published later on 8.7.1973. Admittedly power under Section 17(4) was exercised dispensing with the inquiry under Section 5~A and on service of the notice under Section 9 possession was taken, since urgency was acute viz. pumping station house was to be constructed to drain out the flood water. Consequently, the land stood vested in the State under Section 17(2) free from all encumbrances. It is further settled law that once possession is taken, by operation of Section 17(2),



the land vests in the State free from all encumbrances unless a notification under Section 48(1) is published in the gazette withdrawing from the acquisition. Section 11~A, as amended by Act 68 of 1984, therefore, does not apply, and the acquisition does not lapse. The notification under Section 4(1) and the declaration under Section 6, therefore, remain valid. There is no other provision under the Act to have the acquired land divested, unless, as stated earlier, notification under Section 48(1) was published, and the possession is surrendered pursuant thereto. That apart, since M/s.Kalra properties, the respondent had purchased the land after the notification under Section 4(1) was published, its sale is void against the State, and it acquired no right, title, or interest in the land. Consequently, it is settled law that it cannot challenge the validity of the notification or the regularity in taking possession of the land before the publication of the declaration under Section 6 was published.” (emphasis supplied)

“8. It has been laid down that the purchasers on any ground whatsoever cannot question proceedings for taking possession. A purchaser



after Section 4 notification does not acquire any right in the land as the sale is ab initio void and has no right to claim land under the policy.”

“19. The 2013 Act presupposes that a person is required to be rehabilitated and resettled. Such a person who has purchased after Section 4 notification as sale deed is void under the 1894 Act, cannot claim rehabilitation and resettlement as per policy envisaged under the 2013 Act, as his land has not been acquired, but he has purchased a property which has already been acquired by the State Government, he cannot claim even higher compensation, as per proviso to Section 24(2) under the 2013 Act. An original landowner cannot be deprived of higher value under the 2013 Act, which higher compensation was not so contemplated when the void transaction of sale had been entered, and right is conferred under the proviso to Section 24(2) on recorded owners under the 1894 Act. We have come across instances in which after notification under Section 4 were issued and, the property was purchased at throwaway prices by the builders and unscrupulous persons, such purchases are void and confer no right even to claim higher compensation



under Section 24(2) of the 2013 Act as it is to be given to the owner as mentioned in the notification.

20. Given that, the transaction of sale, effected after Section 4 notification, is void, is ineffective to transfer the land, such incumbents cannot invoke the provisions of Section 24. As the sale transaction did not clothe them with the title when the purchase was made; they cannot claim “possession“ and challenge the acquisition as having lapsed under Section 24 by questioning the legality or regularity of proceedings of taking over of possession under the 1894 Act. 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 2013 Act. When he has not been deprived of his livelihood but is a purchaser under a void transaction, the outcome of exploitative tactics played upon poor farmers who were unable to defend themselves.”

6. This apart, the learned Single Judge has even made a reference to the subsequent judgment of the Apex Court in the case of Indore Development Authority (supra). The issue in the present case is mainly in reference to the lapse of the acquisition



proceedings under the Act of 1894 and that too in the hands of the subsequent purchaser after the Notification under Section 4(1) of the Act of 1894.

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 to 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.

9. The delay is another ground, which is also to be taken note of, because, the acquisition proceedings herein were challenged by the appellants/writ petitioners after a lapse of almost 20 years of the Award and otherwise, the delay was not ignored pursuant to the Act of 2013.”

21. In the present case also the acquisition proceedings were concluded and the award was passed by the Land Acquisition Officer vide No.1/86 dated 30.05.1986. The land was taken over by the Tamil Nadu Housing Board on 25.07.1986. Thus, the Tamil Nadu Housing Board has become the absolute owner of the subject land. The petitioners claiming as subsequent purchasers are not entitled to claim any right over the subject land.

22. The ratio laid down in the judgment (cited *supra*) would be squarely applicable to the facts of the present case. The petitioners are admittedly subsequent purchasers, who have purchased the subject property after completion of the land acquisition proceedings and more so, the



proceedings were concluded in the year 1986 and almost 36 years lapsed. At this length of time, the claim of the writ petitioners to grant patta cannot be considered and the stand by the Tahsildar asking the petitioners to produce the “No Objection Certificate” from the Tamil Nadu Housing Board is well founded and in consonance with the principles settled by the Courts.

23. Thus, this Writ Petition is devoid of merits and stands dismissed.

No costs.

07.06.2023

Jeni
Index : Yes/No
Speaking order/Non-Speaking order
Neutral Citation : Yes/No



To

1. The Tahsildar,
Maduravoyal Taluk,
Maduravoyal,
Thiruvallur District.
2. Tamil Nadu Housing Board,
Rep. by its Managing Director,
493, Anna Salai,
Nandanam,
Chennai – 600 035.



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W.P.No.34800 of 2



S.M.SUBRAMANIAM, J.

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