



WEB COPY

W.A.Nos.890 & 891 of 2009
& W.P.No.21559 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.07.2024

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

W.A.Nos.890 & 891 of 2009

and

C.M.P.Nos.8812 & 8814 of 2009

and

W.P.No.21559 of 2013

and

W.M.P.Nos.6557 & 16094 of 2024

W.A.No.890 of 2009:

Vani

... Appellant

Vs.

1.The State of Tamil Nadu,
Represented by Secretary to Government,
Housing and Urban Development Department,
Fort St. George, Chennai – 600 009.

2.The Land Acquisition Officer,
and Special Tahsildar (Housing),
Sathuvachari, Vellore.

3.The Executive Engineer and
Administrative Officer,



W.A.Nos.890 & 891 of 2009
& W.P.No.21559 of 2013

TNHB, Vellore Housing Unit,
Sathuvacheri, Vellore.

4.A.Neelvathi

... Respondents

Prayer: Writ Appeal filed under Clause 15 of Letters Patent, against the order dated 19.11.2008 passed by Hon'ble Mr.Justice K.Chandru in W.P.No.11645 of 1999.

For Appellant	: Mr.A.Jenasenan
For R1 & R2	: Mr.P.Kumaresan Additional Advocate General Assisted by Mr.S.John J.Raja Singh Additional Government Pleader
For R3	: Mr.M.K.Kabir Senior Counsel For Mr.A.M.Ravindranath Jeyapal Standing Counsel [For TNHB]
For R4	: Died Steps Due

W.A.No.891 of 2009:

1.A.K.Pani (Deceased)

2.K.Dhayavathy

3.K.Praseetha

4.K.Praveen Kumar

... Appellants

[Appellants 2 to 4 are brought on record as LR's of the deceased sole appellant vide order dated 10.10.2017 in CMP.Nos.9688 to 9690/2017]



W.A.Nos.890 & 891 of 2009
& W.P.No.21559 of 2013

WEB COPY

Vs.

1.The State of Tamil Nadu,
Represented by Commissioner, Secretary to Government,
Housing and Urban Development Department,
Fort St. George, Chennai – 600 009.

2.The Land Acquisition Officer,
and Special Tahsildar (Housing),
Sathuvachari, Vellore.

3.The Executive Engineer and
Administrative Officer,
Vellore Housing Unit,
Tamil Nadu Housing Board,
Vellore.

... Respondents

[R3 impleaded as respondent vide order dated 25.07.2024
made in MP.No.1 of 2010 in WA.No.891 of 2009]

Prayer: Writ Appeal filed under Clause 15 of Letters Patent, against the
order dated 19.11.2008 passed by Hon'ble Mr.Justice K.Chandru in
W.P.No.20340 of 1999.

For Appellants : Mr.A.Jenasenan

For R1 & R2 : Mr.P.Kumaresan
Additional Advocate General
Assisted by Mr.S.John J.Raja Singh
Additional Government Pleader

For R3 : Mr.M.K.Kabir
Senior Counsel
For Mr.A.M.Ravindranath Jeyapal
Standing Counsel [For TNHB]



W.A.Nos.890 & 891 of 2009
& W.P.No.21559 of 2013

WEB COPY W.P.No.21559 of 2013:

- 1.P.Sekar
- 2.G.Guberan
- 3.N.K.Natraj (Deceased)
- 4.R.S.Vallikandan
- 5.T.Ravikumar
- 6.R.Subbiyan
- 7.D.Thiruvengidam
- 8.N.Yamuna Nageswara
- 9.K.Thirugnanam
- 10.S.Mohanam
- 11.L.S.Venkatasubramanian
- 12.P.Sri Ganesh
- 13.S.Raja
- 14.N.V.Jeevarathinam
- 15.S.Krishnan
- 16.S.Malarvizhi
- 17.N.Chinnayan
- 18.Niranjan Kumar
- 19.A.L.Adhikesavan
- 20.N.V.Dinakaran
- 21.V.Gnanaprakasam
- 22.D.Settu
- 23.M.Sivakumar
- 24.M.Mohan Kumar
- 25.Jayalakshmi Subbiyan
- 26.K.Munisamy
- 27.Mrs.N.Karthiyayini
- 28.Minor N.Haritha

Represented by Mother and Natural Guardian

Mrs.N.Karthiyayini

... Petitioners

[P27 & P28 are substituted as LR's of deceased 3rd petitioner
vide order dated 16.08.2021 made in WMP.No.253/2020 in
WP.No.21559/2013]



W.A.Nos.890 & 891 of 2009
& W.P.No.21559 of 2013

WEB COPY

Vs.

- 1.State of Tamil Nadu,
Represented by its Secretary,
Department of Housing,
Fort St. George, Chennai – 600 009.
- 2.Tamil Nadu Housing Board,
Represented by its Managing Director,
Nandanam, Chennai – 36.
- 3.Executive Engineer and Administrative Officer,
Tamil Nadu Housing Board,
Vellore Housing Division,
Sathuvachari Phase – I,
Vellore – 632 009
- 4.K.Sampath
- 5.K.Neelameegam
- 6.Mrs.Vijaya
- 7.V.Ganesan
- 8.V.Kesavan
- 9.K.M.Rajenderan
- 10.R.Kumaran
- 11.R.Gopinath
- 12.A.G.Subramani
- 13.S.Balamurugan
- 14.S.Vijayalakhshmi
- 15.S.Prathap
- 16.P.Ramesh Babu
- 17.RP Rajan
- 18.P.Prem Kumar
- 19.K.A.Subramanian
- 20.R.Ravikumar
- 21.R.Senthikumar



W.A.Nos.890 & 891 of 2009
& W.P.No.21559 of 2013

22.V.Visalakshi
23.M.V.Anandan
24.R.V.Krishnan
25.S.Murugan
26.S.Gangadharan
27.K.Settu
28.J.Satish
29.K.Venkatesan
30.K.Sivaji
31.S.Vinod
32.M.Settu
33.S.Prakash
34.C.Mani

... Respondents

[R4 to R34 impleaded as respondents as per order dated 25.07.2024
made in WMP.No.6490/2023 in WP.No.21559/2013]

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, to direct the respondents particularly 1st respondent to re-convey the lands in S.No.187/1B, 1C, 1D, 1F, 187/3, Land Acquisition 188 Alamelumangapuram Housing Scheme, Vellore admeasuring 3.70 acres from the acquisition proceedings notified under Section 4(1) of the Act issued in G.O.Ms.No.685, Housing and Development dated 29.04.1984 and published in Government Gazette dated 19.09.1984, in exercise of its power under Section 48-B of the Land Acquisition Act.

For Petitioners : Mr.A.U.Ilango

For R1 : Mr.P.Kumaresan
Additional Advocate General
Assisted by Mr.S.John J.Raja Singh
Additional Government Pleader



W.A.Nos.890 & 891 of 2009
& W.P.No.21559 of 2013

For R2 & R3

: Mr.M.K.Kabir
Senior Counsel
For Mr.C.Kalaichelvan

For R4 to R34

: Mr.A.Jenasenan

COMMON JUDGMENT

[Judgment was delivered by **S.M.SUBRAMANIAM, J.**]

The lis on hand has been instituted challenging the writ order dated 19.11.2008 passed in W.P.Nos.11645 & 20340 of 1999.

2. The unsuccessful writ petitioners are the appellants before us.

3. The Tamil Nadu Housing Board proposed to acquire larger extent of land in Sathuvachari and Alamelumangapuram Villages in Vellore Taluk and District for forming Vellore Neighbourhood Scheme. The lands covered 23 acres and 84 cents comprised in 70 Survey Numbers were sought to be acquired from 85 individual owners. The Alamelumangapuram Panchayat by Resolution No.10 dated 11.08.1975 approved a layout consisting 20 plots. Road portion has been handed over to the Panchayat. Thereafter, Section (2)



W.A.Nos.890 & 891 of 2009
& W.P.No.21559 of 2013

WEB COPY

Notification was issued in G.O.Ms.No.685, Housing and Urban Development Department dated 19.09.1984. Section 6 Publication was made by G.O.Ms.No.1047, Housing and Urban Development Department dated 14.07.1986 on 15.07.1986. Award No.3 of 1988 was passed by the Special Tahsildar, Land Acquisition, Housing Unit, Vellore on 12.07.1988. Notice under Section 12(2) was issued to the land owners on 19.07.1988. Thereafter, on the same day, Notice was issued to the owners to vacate and hand over possession. Accordingly, the authorities have taken possession of the land. The land owners handed over possession to the Special Tahsildar, Land Acquisition on 22.07.1988. Consequently, Transfer Charge Certificate was handed over by the Special Revenue Inspector to the Head Surveyor, Vellore Housing Unit on 01.08.1988. Compensation determined under the Land Acquisition Act was deposited on the file of Sub Court, Vellore on 30.04.1988. Thereafter, patta transferred in the name of the Housing Board vide Patta No.142 mutations were effected in the 'A' Register and the name of the Tamil Nadu Housing Board was entered. The Chief Engineer, Tamil Nadu Housing Board approved layout scheme and in the year 2019, a Police complaint was registered by the Executive Engineer against the encroachers.



W.A.Nos.890 & 891 of 2009
& W.P.No.21559 of 2013

WEB COPY

4. Mr.Jenasenan, learned counsel for the appellants would mainly contend that after passing of award on 12.07.1988, Transfer Charge Certificate was handed over by the Special Revenue Inspector to the Head Surveyor, Vellore Housing Unit. The original owners filed W.P.No.6411 of 1989, questioning Section 4(1) Notification and its declaration. The writ petition was allowed on 11.09.1991 quashing the acquisition proceedings. Thereafter, the erstwhile original land owner Mr.Kanniappa Mandri / Petitioner in W.P.No.6411 of 1989 by way of three registered Sale Deeds sold an extent of 3 acres and 70 cents in favour of Smt.K.Vani / appellant in W.A.No.890 of 2009. On 21.04.1994, Mr.Kanniappa Manthiri further sold an extent of 46.5 cents by way of registered Sale Deed dated 21.04.1994 in favour of A.K.Pani. The contention of the Mr.Jenasenan, learned counsel for the appellants would be that layout was approved at the instance of Smt.K.Vani on 20.04.1995 and road portions were gifted to Vellore Panchayat Union by way of registered Gift Deed dated 02.08.1995. 15 plots have been sold during the year 1995, 25 plots were sold in the year 1996 and 5 plots were sold in the year 1997. Another layout was approved on 08.08.1997 in respect of the land covered in S.No.212/1 measuring an extent of 59 cents. 7 plots were formed and road portion had been gifted in favour of



W.A.Nos.890 & 891 of 2009
& W.P.No.21559 of 2013

the Panchayat.

WEB COPY

5. After above developments, the Writ Appeal filed by the respondents in W.A.No.248 of 1995 was allowed by the Division Bench of this Court on 01.10.1997. The original land owners Shri Kanniappa Manthiri along with subsequent purchasers filed Review Application No.3 of 1998 to review the order dated 01.10.1997 passed in W.A.No.248 of 1995. The Division bench of this Court dismissed the Review Application with an observation “any owner of the land which includes the applicants also will be at liberty to approach the State bringing out the true facts to their notice for appropriate relief in accordance with law”. There was no doubt in impartiality of the State in considering the representation.

6. Pursuant to the observations made by the Division Bench in the review order, the subsequent purchasers / appellants herein filed individual application under Section 48-B of the Land Acquisition Act to re-convey the land. The said application was negatived by the Government on the ground that it was not possible, since the Neighbourhood Scheme had already been started in the subject lands acquired. Thus, the writ petitions are filed by the



W.A.Nos.890 & 891 of 2009
& W.P.No.21559 of 2013

appellants.

WEB COPY

7. Mr.Jenasenan, learned counsel would submit that the learned Single Judge has not taken into consideration the long delay occurred in filing the writ appeal and during the interregnum period, the original land owner Mr.Kanniappa Manthiri sold the properties to the third parties. During the said period, he possessed valid title over the property and therefore, there is no infirmity in respect of the sale occurred in between 1991 and 1997 and thus, the Government ought to have re-conveyed the subject properties by entertaining the application filed under Section 48-B of the Land Acquisition Act.

8. Further contention made on behalf of the appellants would be that the acquisition proceedings are not conducted properly. Compensation determined was not paid to the land owners. The acquisition proceedings are not binding on the subsequent purchasers, since during the purchase there was no legal impediment and thus, the sale is valid.

9. Mr.P.Kumaresan, learned Additional Advocate General appearing



W.A.Nos.890 & 891 of 2009
& W.P.No.21559 of 2013

WEB COPY

on behalf of the 'State' would submit that at the request of the Tamil Nadu Housing Board, acquisition proceedings are initiated by following the due process under the Act. There is no infirmity in respect of the procedures followed. The compensation determined by the Land Acquisition Officer was deposited before Sub Court, Vellore. Thus, the entire process of acquisition concluded in the year 1998 and possession was handed to the Housing Board by duly obtaining acknowledgements from the erstwhile land owners. The patta was transferred and revenue records were mutated in the name of Tamil Nadu Housing Board. That being so, there is no reason for the Writ Court to allow the writ petition at the first instance. However, there was no delay in preferring writ appeal before the Division Bench. As per the letter of the then Government Pleader in R.O.N.W.A.No.2771 of 1993 dated 12.01.1993, the writ appeal was filed on 12.01.1993 on the file of the High Court of Madras. The learned Single Judge allowed the writ petition on 11.09.1991 and the certified copy was delivered thereafter and the writ appeal with a delay of 73 days filed and there was no enormous delay in filing the writ appeal. Once the writ appeal has been filed and the delay is condoned, the ground taken on behalf of the appellants that there was an enormous delay in preferring the appeal need not be considered by this Court.



W.A.Nos.890 & 891 of 2009
& W.P.No.21559 of 2013

WEB COPY

10. The learned Additional advocate General would further submit that the scheme has been partly implemented. Larger extent of lands were acquired, major portion of the lands were taken possession and utilised for public purposes. Therefore, the present writ appeals are to be rejected.

11. Mr.K.Kabir, learned Senior Counsel appearing on behalf of the Tamil Nadu Housing board would strenuously oppose by stating that the grounds taken on behalf of the appellants are untenable in view of the fact that all such grounds were already addressed and findings are given both by the Division Bench of this Court and by learned Single Judge in the writ order, which is impugned in the present writ appeal.

12. Mr.K.Kabir, learned Senior Counsel would take us to the typed set of papers filed on behalf of the Tamil Nadu Housing Board, where they have enclosed the copy of proceedings handing over possession of the subject property to the competent authority. Transfer Charge Certificate in award No.3 of 1988 dated 13.01.1998 is produced before us. Proceedings of the Revenue Divisional Officer in R.C.B.3.82/84 dated 30.04.1998 would reveal



W.A.Nos.890 & 891 of 2009
& W.P.No.21559 of 2013

WEB COPY

that the compensation determined was deposited. Patta produced also stands in the name of Tamil Nadu Housing Board. Subsequently, the Tamil Nadu Housing Board, Vellore Unit registered a Police complaint for removal of encroachers in the subject land.

13. At the outset, it is contended that all the revenue records stand in the name of the Tamil Nadu Housing Board. The compensation was deposited in the year 1998. Therefore, the grounds raised regarding delay in filing writ appeal is untenable and the said ground was considered by the Division Bench, while dealing with the Review Application filed against the judgment passed in the writ appeal.

14. The writ appeal in W.A.No.248 of 1995 filed by the State of Tamil Nadu and Land Acquisition Officer and Special Tahsildar (Housing) was allowed by the Division Bench on 01.10.1997. Review Application was filed by Mr.Kanniappa Manthiri original owner along with the subsequent purchasers. The Division Bench passed following orders:

*“Learned Counsel for the petitioners very
ludidly and vociferously on the sole ground,*



W.A.Nos.890 & 891 of 2009
& W.P.No.21559 of 2013

contended that in view of the delay in filing the appeal during which they purchased the land and further sold it to the small plot holders, the acquisition held to be valid he set aside to the extent the land has been purchased on equitable grounds or at least the State be directed to release the same.

2. In our considered view, it is not a sufficient ground for reviewing the order on merits. Be that as it is, as it has already been observed that any owner of the land which includes the applicants also will be at liberty to approach the State bringing out the true facts to their notice for appropriate relief in accordance with law. We have no doubt in the impartiality of the State in considering the representation. Review applications are dismissed. Consequently, C.M.No.381 of 1998 is also dismissed. In view of this, no orders are required in C.M.P.No.473 of 1998.”

15. The above findings of the Division Bench in the review order reveals that grounds relating to delay in filing the appeal and the subsequent alienation of the subject properties were considered. When such a ground is



W.A.Nos.890 & 891 of 2009
& W.P.No.21559 of 2013

WEB COPY

considered in Review Application, the appellants herein cannot raise the very same ground during the next round of litigation. While considering the ground of delay in filing the writ appeal, the Division Bench in the review order granted liberty to the subsequent purchasers to approach the Government. Accordingly the appellants approached the Government by filing an application under Section 48-B of the Land Acquisition Act.

16. Pertinently the writ appeal is allowed and the acquisition proceedings are sustained. Thus, the application seeking re-conveyance of the acquired land was rightly rejected by the Government.

17. The order of the Government dated 03.06.1999 states that land has been acquired by the Tamil Nadu Housing Board and the Schemes are under progress. Subject land is necessarily required to the Housing Board for public purposes. Therefore, the request of the appellants cannot be acceded with.

18. The learned Single Judge has taken into consideration that delay in filing the writ appeal was already considered by the Division bench in the review order. Therefore, the said delay cannot be a ground to invalidate the



W.A.Nos.890 & 891 of 2009
& W.P.No.21559 of 2013

acquisition proceedings, which was concluded in the year 1998.

WEB COPY

19. With reference to the delay and subsequent purchase during the interregnum period, the learned Single Judge in the writ order impugned considered the arguments made on behalf of the appellants and held that the delay in filing writ appeal cannot be a ground to be put against the 'State' because the delay has been condoned by the Division Bench and ultimately, the Division Bench has allowed the said appeal. The Division Bench has only given a limited liberty to the petitioners to approach the Government for re-conveyance after setting out relevant facts in their favour.

20. It is brought to the notice of this Court that the delay was only 73 days in filing the writ appeal. The said delay cannot be construed as enormous, so as to held that the subsequent purchase is valid. The said delay of 73 days was condoned and writ appeal was entertained and allowed in favour of the State. Therefore, the said ground now raised again by the appellants are of no avail to them.

21. The legal principles regarding re-conveyance of acquired land has been considered by the the Division Bench of the High Court of Madras in



W.A.Nos.890 & 891 of 2009
& W.P.No.21559 of 2013

the case of **B.Nagaraj vs. State of Tamil Nadu**¹, held as follows;

WEB COPY

“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

¹ W.A.No.1204 of 2022, etc. and batch dated 09.06.2022



WEB COPY



W.A.Nos.890 & 891 of 2009
& W.P.No.21559 of 2013

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



W.A.Nos.890 & 891 of 2009
& W.P.No.21559 of 2013

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



W.A.Nos.890 & 891 of 2009
& W.P.No.21559 of 2013

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



W.A.Nos.890 & 891 of 2009
& W.P.No.21559 of 2013

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



W.A.Nos.890 & 891 of 2009
& W.P.No.21559 of 2013

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



W.A.Nos.890 & 891 of 2009
& W.P.No.21559 of 2013

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



WEB COPY



W.A.Nos.890 & 891 of 2009
& W.P.No.21559 of 2013

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



W.A.Nos.890 & 891 of 2009
& W.P.No.21559 of 2013

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



W.A.Nos.890 & 891 of 2009
& W.P.No.21559 of 2013

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.”

22. In the Constitution Bench of the Hon'ble Supreme Court of India in the case of **Indore Development Authority vs. Manoharlal**². 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

² [2020 (8) SCC 129]



W.A.Nos.890 & 891 of 2009
& W.P.No.21559 of 2013

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.”

23. In view of the fact that the acquisition proceedings in all respects concluded in the year 1988 and the said acquisition proceedings are validated by the Division Bench of this Court in the year 1997, we do not find any reason to interfere with the order of the learned Single Judge. Since the writ



W.A.Nos.890 & 891 of 2009
& W.P.No.21559 of 2013

appeal was allowed and the review filed by the subsequent purchasers were considered by the Division Bench and there is a specific finding about the ground of delay raised by the subsequent purchaser in the Review Application. While so, re-adjudication of the said ground in the present proceedings became unnecessary.

24. In respect of the grounds raised that Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 is to be invoked, we are of the considered opinion that the land acquisition proceedings concluded in the year 1988 and the compensation amount was deposited in the year 1998 even prior to the new Land Acquisition Act. As per the legal proposition laid down by the Hon'ble Supreme Court of India, if the acquisition proceedings are concluded prior to the New Act, possession and the compensation is deposited, the benefit of Section 24(2) is not available to the land owners.

25. The learned Standing Counsel on instructions from the authorities, who are present before this Court made a submission that few encroachers are causing obstruction and they are not permitting the authorities to enter



W.A.Nos.890 & 891 of 2009
& W.P.No.21559 of 2013

WEB COPY

into the subject land. In this regard a Police complaint has been registered by the Executive Engineer, Tamil Nadu Housing Board, Vellore Unit. Thus, the Superintendent of Police, Vellore is directed to provide adequate protection to the authorities to evict the encroachers from the subject property.

26. Registry is directed to mark a copy of this order to the Superintendent of Police, Vellore District.



W.A.Nos.890 & 891 of 2009
& W.P.No.21559 of 2013

WEB COPY

27. With the above directions, the Writ Appeals and Writ Petition stand dismissed. Consequently, connected Miscellaneous Petitions are closed.

However, there shall be no order as to costs.

[S.M.S., J.] [C.K., J.]
25.07.2024
(3/3)

Jeni

Index : Yes

Speaking order

Neutral Citation : Yes

To

- 1.The Secretary to Government,
The State of Tamil Nadu,
Housing and Urban Development Department,
Fort St. George, Chennai – 600 009.
- 2.The Land Acquisition Officer,
and Special Tahsildar (Housing),
Sathuvachari, Vellore.
- 3.The Executive Engineer and
Administrative Officer,
TNHB, Vellore Housing Unit,
Sathuvacheri, Vellore.
- 4.The Managing Director,
Tamil Nadu Housing Board,
Nandanam, Chennai – 36.



W.A.Nos.890 & 891 of 2009
& W.P.No.21559 of 2013

Copy to:

5.The Superintendent of Police,
Vellore District.



WEB COPY



W.A.Nos.890 & 891 of 2009
& W.P.No.21559 of 2013

S.M.SUBRAMANIAM, J.
and
C.KUMARAPPAN, J.

Jeni

W.A.Nos.890 & 891 of 2009
& W.P.No.21559 of 2013

25.07.2024
(3/3)