Reserved on : 08.07.2025
Pronounced on : 16.07.2025

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IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 16TH DAY OF JULY, 2025

BEFORE

THE HON'BLE MR. JUSTICE M. NAGAPRASANNA

WRIT PETITION No.22154 OF 2023 (BDA)

BETWEEN:

SRI VENU
AGED ABOUT 75 YEARS,
S/O LATE V. VENKATASWAMAPPA,
R/AT NO. 42, VICTORY MANSION,
1ST MAIN ROAD, SHESHADRIPURAM,
BENGALURU – 560 020.

... PETITIONER

(BY SRI S.SRIVATSA, SR.ADVOCATE FOR
SRI CHANDRASHEKAR R., ADVOCATE)

AND:

1 . THE STATE OF KARNATAKA
URBAN DEVELOPMENT DEPARTMENT,
M.S. BUILDING, DR. AMBEDKAR VEEDHI,
BENGALURU – 560 001,
BY ITS SECRETARY.

2 . THE COMMISSIONER
BANGALORE DEVELOPMENT AUTHORITY,
T. CHOWDAIAH ROAD,

KUMARAPARK WEST,
BENGALURU – 560 020.

3. SRI KEERTHAN S.KUMAR
AGED ABOUT 26 YEARS
S/O LATE SRI V.SHASHIKUMAR.

4. SMT.PRAMILA SHASHIKUMAR
AGED ABOUT 56 YEARS
W/O LATE V.SHASHIKUMAR.

5. SMT.MONICA S.KUMAR
AGED ABOUT 31 YEARS
D/O SMT.PRAMILA SHASHIKUMAR
AND LATE V.SHASHIKUMAR.

ALL ARE RESIDING AT NO.211
5TH CROSS, NEAR VIJAYA BANK
DOMLUR LAYOUT, DOMLUR
BENGALURU – 560 071.

... RESPONDENTS

(BY SMT.RASHMI RAO, HCGP FOR R-1;
SRI UNNIKRISHNAN M., ADVOCATE FOR R-2;
SRI S.V.GIRIDHAR, ADVOCATE FOR R-3 TO R-5)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO DECLARE THAT THE RESPONDENTS HAVE NO RIGHT WHATSOEVER OVER THE PETITION SCHEDULE PROPERTY COMPRISED IN SY.NO.54/1, 54/2 (OLD NO.54) OF THIPPASANDRA VILLAGE, KRISHNARAJAPURA HOBLI, BANGALORE SOUTH TALUK, PRESENTLY BANGALORE EAST TALUK, BANGALORE, PURSUANT TO FINAL NOTIFICATION DTD 15TH JULY 1971 ISSUED UNDER THE CITY OF BANGALORE IMPROVEMENT ACT, 1945 BY THE R1 BEARING NO.HMA 53 MNJ 71 AND PUBLISHED IN GAZETTE DTD: 29TH JULY 1971 VIDE ANNEXURE-S.

THIS WRIT PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 08.07.2025, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:-

CORAM: **THE HON'BLE MR JUSTICE M.NAGAPRASANNA**

CAV ORDER

The petitioner is before this Court seeking the following prayer:

> "(i) Call for records from the respondents;
>
> (ii) Declare that the respondents have no right whatsoever over the petition schedule property comprised in Sy.No.54/1, 54/2 (Old No.54) of Thippasandra Village, Krishnarajapura Hobli, Bangalore South Taluk, presently Bangalore East Taluk, Bangalore, pursuant to Final Notification dated 15th July 1971 issued under the City of Bangalore Improvement Act, 1945 by the first respondent bearing No. HMA 53 MNJ 71 and published in Gazette dated 29th July 1971 vide Annexure-S.
>
> (iii) Issue writ in the nature of certiorari quashing the e-Auction Notification dated 16-09-2023 issued by the Respondent No.2 insofar as the schedule property of the petitioner is concerned and marked as Annexure-R.
>
> (iv) Pass such other order/s as this Hon'ble Court deems fit in the facts and circumstances of the case."

2. Facts, in brief, germane are as follows:-

The City Improvement Trust Board, the erstwhile Authority to the Bangalore Development Authority ('BDA' for short) coming into

existence, issued a preliminary notification for formation of HAL III Stage on 22-09-1970 which was followed by a final notification on 15-07-1971. The petitioner comes into the picture 25 years after the preliminary notification, by purchasing the property jointly along with one Venugopala Reddy, belonging to one Smt. Kenchamma, pursuant to a sale deed dated 04-10-1995. The petitioner has appended to the petition several subsequent documents to demonstrate that he is in possession of the property and all statutory licences of the Bruhat Bangalore Mahanagara Palike ('BBMP' for short) or otherwise stand in his name. Katha of the property is also said to be in the name of the petitioner and another. When things stood thus, an e-auction notification comes to be issued on 16-09-2023 seeking to auction the property including the property of the petitioner. It is at that juncture the petitioner knocks at the doors of this Court, calling in question the said notification of e-auction and further seeks a declaration that the respondents have no right over the petition schedule property, virtually calling in question the notification of acquisition of the year 1971. A coordinate Bench of this Court, protects the interest of the petitioner by granting an interim order of stay of the proceedings.

The matter, with the consent of learned counsel representing the parties, is heard.

3. Heard Sri S.Srivatsa, learned senior counsel appearing for the petitioner, Smt. Rashmi Rao, learned High Court Government Pleader appearing for respondent No.1, Sri M.Unnikrishnan, learned counsel appearing for respondent No.2 and Sri S.V. Giridhar, learned counsel appearing for respondents 3 to 5.

4. Learned senior counsel representing the petitioner would submit that the petitioner pursuant to the purchase of the property on 04-10-1995 has been in possession for the last 30 years and all statutory requirements right from Electricity to khatha stand in the name of the petitioner. The possession of the property was never taken by the BDA pursuant to acquisition notification of the year 1971. Therefore, the BDA could not have put up the property for auction to allot to someone else. Having left the property from acquisition, it is now not open to contend otherwise. The learned senior counsel would submit that if HAL III Stage plan is noticed, there is no site No.828 which belongs to the petitioner in

Sy.No.54/1, that comes within the said survey number and the said site was dropped from acquisition.

5. Per contra, the learned counsel representing the 2nd respondent BDA would vehemently refute the submissions contending that the petitioner has never purchased the property in Sy.No.54/1. The acquisition is of the year 1971 which is called in question in the year 2023. Though the prayer is differently worded, it is virtually challenging the preliminary notification. Therefore, the petition should not be entertained.

6. The learned counsel Sri S.V.Giridhar representing respondents 3 to 5 who are the allottees would vehemently contend that the petitioner has no locus to challenge the acquisition, as he is the purchaser of a property 25 years after the acquisition. He would submit that the law in this regard is too well settled that, purchaser of a property, after the preliminary notification, has no locus to challenge the acquisition. It is only the land owner who has a right to challenge it. The land owner is not and cannot be before the Court, as it is an acquisition of the year 1971. He would seek dismissal of the petition.

7. The learned senior counsel would join issue to contend that there is a contract of sale deed between the land owner and the petitioner and, therefore, he would get locus to challenge the acquisition. He would seek to place reliance on several judgments rendered by this Court and other Courts to buttress his submission *qua* locus to challenge. The learned counsel for respondents 3 to 5 would also seek to place reliance on several judgments, all of which would bear consideration *qua* their relevance in the course of the order.

8. I have given my anxious consideration to the submissions made by the respective learned counsel and have perused the material on record.

9. The afore-narrated facts and link in the chain of events are all a matter of record. The acquisition for formation of HAL III Stage was taken up by the then City Improvement Trust Board and a preliminary notification to that effect was issued on 22-09-1970 followed by a final notification on 15-07-1971. The petitioner

claims to be a purchaser from the hands of one Smt. Kenchamma who is said to be the owner of the subject property. The sale deed is appended to the petition. The sale deed is between Smt. Kenchamma and the petitioner and another. The relevant recitals and the schedule in the sale deed are necessary to be noticed. They are as under:

> **"Whereas, the term Vendor and Purchasers herein used shall mean and include their respective heirs, executors, administrators, legal representatives and assigns, etc.**
>
> **Whereas, the vendor is the absolute owner of the schedule detailed property being house No. H.A.S.B. Khatha No.898, New No.1891/898, situated at new Thippasandra Village, K.R. Puram Hobli, H.A.S.B. Area, Bangalore South Taluk, more fully detailed in the schedule hereunder and the vendor is in peaceful possession and enjoyment thereof. Khatha of the property stands in the name of the vendor and taxes were paid…. … … ….**
>
> **SCHEDULE**
>
> **All that piece and parcel of house bearing H.A.S.B., Old Khatha No.898, New Katha No.1891/898, situated at New Thippasandra Village, K.R.Puram Hobli, H.A.S.B. Area, Bangalore South Taluk, measuring east to west on northern side 40 feet and on southern side 29½ feet north to south: 25 feet (40'+29½) feet x 25' feet and bounded:-** **2**
>
> **East by : Private Property.**
> **West by: Road,**
> **North by: Northern portion of khatha No.898 sold To purchasers.**

South by: Road. ... ..."
(Emphasis added)

Another sale deed is executed on the same day and the schedule to the said sale deed is as follows:

"SCHEDULE

All that piece and parcel of house bearing H.A.S.B. Khatha Old No.898, then changed as No.1891/898, situated at New Thippasandra Village, K.R.Puram Hobli, H.A.S.B. Area, Bangalore South Taluk, measuring East to West on northern side 51½ feet on southern side 40 feet, north to south: eastern side 30 feet western side 27 feet. $\left(\frac{51½ + 40'}{2} \times \frac{30' + 27'}{2}\right)$ and bounded:-

East by: Private property.
West by: Road;
North by: Private Property.
South by: Remaining portion of Khatha No.898, Sold to purchasers."

The sale deeds so produced or appended to the petition would nowhere indicate that the land owner Kenchamma has sold to the petitioner site No.828 in Sy.No.54/1. There is no mention of Sy.No.54/1 in both the sale deeds. The recitals in the sale deeds do not indicate how Kenchamma became owner of the property. They only describe that the vendor Kenchamma is the absolute owner of the property and is, therefore, selling the property. This is the status of purchase by the petitioner.

10. As observed hereinabove, both preliminary and final notifications had been issued 25 years prior to the sale deed. The petitioner then is said to be paying electricity bills and taxes on the said property. He comes to the doors of this Court on the score that an e-auction notification of the property that he is in possession of is notified by the BDA. The auction notification among others is with regard to three properties in HAL III Stage. The three properties are as follows:

"HAL 3rd Stage

44	1222/A	(17.70+17.00)/2	(3.30+9.20)/2	108.40
45	**828**	**(8.70+13.90)/2**	**(16.30+15.00)/2**	**176.80**
46	256/A	(11.60+12.20)/2	(7.60+5.00)/2	74.97

Initial bid price per Sq. Mtr. is ₹1,25,700/-"

(Emphasis added)

One site No.828 is also a part of the e-auction notification. If the sale deed and the e-auction notification are read in tandem, the petitioner has never purchased Site No.828. There is neither site No.828 nor Sy.No.54/1 in the sale deeds as contended by the learned counsel for the petitioner. Therefore, what property the petitioner has purchased from whom is still a matter of doubt. Be

that doubt as it is. Whether the petitioner has locus to challenge the acquisition proceedings is necessary to be noticed.

11. The learned senior counsel for the petitioner has strenuously contended that the petitioner is not challenging the acquisition proceedings, but has sought a prayer that is different. The prayer is quoted hereinabove. The 2nd prayer that is sought is, to restrain the BDA from interfering with the possession of the property by the petitioner, notwithstanding the final notification issued in the year 1971. Paragraphs in the writ petition would clearly indicate that the challenge is laid to the notification and the prayer is cleverly worded. The entire fulcrum of the pleading is that the BDA had to exercise its statutory power within a reasonable time and the respondents have not executed the Scheme substantially, scheme would be the HAL III Stage and the Scheme has lapsed. Therefore, Section 36 of the Act would thus become operative. If this is the tenor of the pleading, it is clear that the petitioner is wanting to challenge the acquisition on the score that HAL Scheme has lapsed. The prayer also is indirectly to that effect.

It is trite, **what one cannot do overtly, cannot be permitted to be done covertly, under the shelter of legal sophistry.**

12. Jurisprudence is replete, with the Apex Court considering the issue as to whether, a subsequent purchaser either after the preliminary notification or the final notification has locus to challenge the acquisition proceedings. The Apex Court in the case of **MEERA SAHNI v. LIEUTENANT GOVERNOR OF DELHI**[1] has held as follows:

> "…. …. ….
>
> **17.** When a piece of land is sought to be acquired, a notification under Section 4 of the 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 recognised 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**.
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> **18.** In *U.P. Jal Nigam* v. *Kalra Properties (P) Ltd.* [(1996) 3 SCC 124] it was stated by this Court that: (SCC p. 126, para 3)

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[1] (2008) 9 SCC 177

> "*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* v. *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 an impediment to anyone to encumber the land acquired thereunder. It authorises 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**."
>
> … … …

21. In view of the aforesaid decisions it is by now well-settled law that under the Land Acquisition Act, **the subsequent purchaser cannot challenge the acquisition proceedings and that he would be only entitled to get the compensation**."

(Emphasis supplied)

Again, the Apex Court in the case of **M. VENKATESH v. COMMISSIONER, BANGALORE DEVELOPMENT AUTHORITY**[2] has held as follows:-

"…. …. ….

> **16.** That brings us to the question 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 22-8-1990 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 a 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* v. *Kalra Properties (P) Ltd.* [*U.P. Jal Nigam* v. *Kalra Properties (P) Ltd.*, (1996) 3 SCC 124: AIR 1996 SC 1170], 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 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 enquiry 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 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

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[2] (2015) 17 SCC 1

> 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, 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 publication of the declaration under Section 6 was published."

17. To the same effect are the decisions of this Court in *Ajay Krishan Shinghal* v. *Union of India* [*Ajay Krishan Shinghal* v. *Union of India*, (1996) 10 SCC 721 : AIR 1996 SC 2677] , *Mahavir* v. *Rural Institute* [*Mahavir* v. *Rural Institute*, (1995) 5 SCC 335] , *Gian Chand* v. *Gopala* [*Gian Chand* v. *Gopala*, (1995) 2 SCC 528] , *Meera Sahni* v. *Lt. Governor of Delhi* [*Meera Sahni* v. *Lt. Governor of Delhi*, (2008) 9 SCC 177] and *Tika Ram* v. *State of U.P.* [*Tika Ram* v. *State of U.P.*, (2009) 10 SCC 689 : (2009) 4 SCC (Civ) 328] More importantly, as on the date of the suit, the respondents had not completed 12 years in possession of the suit property so as to entitle them to claim adverse possession against BDA, the true owner. The argument that possession of the land was never taken also needs notice only to be rejected for it is settled that one of the modes of taking possession is by drawing a panchnama which part has been done to perfection according to the evidence led by the defendant BDA. Decisions of this Court in *T.N. Housing Board* v. *A. Viswam* [*T.N. Housing Board* v. *A. Viswam*, (1996) 8 SCC 259: AIR 1996 SC 3377] and *Larsen & Toubro Ltd.* v. *State of Gujarat* [*Larsen & Toubro Ltd.* v. *State of Gujarat*, (1998) 4 SCC 387: AIR 1998 SC 1608], sufficiently support BDA that the mode of taking possession adopted by it was a permissible mode."

(Emphasis supplied)

The Apex Court, in its later judgment, in the case of **SHIV KUMAR v. UNION OF INDIA**[3], has held as follows:

"…. …. ….

7. First, we advert to the legal position concerning the purchases made on 5-7-2001, made after notification under Section 4 had been issued under the 1894 Act. Law is well settled in this regard by a catena of decisions of this Court that an incumbent, who has purchased the land after Section 4 notification, has no right to question the acquisition.

7.1. In *U.P. Jal Nigam* v. *Kalra Properties (P) Ltd.* [*U.P. Jal Nigam* v. *Kalra Properties (P) Ltd.*, (1996) 3 SCC 124] it was observed: (SCC p. 127, para 3)

> "*3*. … 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."

7.2. In *Sneh Prabha* v. *State of U.P.* [*Sneh Prabha* v. *State of U.P.*, (1996) 7 SCC 426] it has been laid down that subsequent purchaser cannot take advantage of land policy. It was observed: (SCC p. 430, para 5)

> "*5*. Though at first blush, we were inclined to agree with the appellant but on a deeper probe, we find that the appellant is not entitled to the benefit of the Land Policy. **It is settled law that any person who purchases land after the publication of the notification under Section 4(1), does so at his/her 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 a public purpose, and the acquisition proceedings point out an impediment to anyone to**

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[3] (2019) 10 SCC 229

> **encumber the land acquired thereunder. It authorises the designated officer to enter upon the land to do preliminaries, etc. Therefore, any alienation of 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, titles, 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. If any subsequent purchaser acquires land, his/her only right would be subject to the provisions of the Act and/or to receive compensation for the land. In a recent judgment, this Court in *Union of India* v. *Shivkumar Bhargava* [*Union of India* v. *Shivkumar Bhargava*, (1995) 2 SCC 427] considered the controversy and held that a person who purchases land subsequent to the notification is not entitled to an alternative site. It is seen that the Land Policy expressly conferred that right only on that person whose land was acquired. In other words, the person must be the owner of the land on the date on which notification under Section 4(1) was published. By necessary implication, the subsequent purchaser was elbowed out from the policy and became disentitled to the benefit of the Land Policy**."

7.3. In *Meera Sahni* v. *State (NCT of Delhi)* [*Meera Sahni* v. *State (NCT of Delhi)*, (2008) 9 SCC 177], the Court had relied upon the decision described above and observed thus: (SCC p. 184, para 21)

> "*21*. In view of the aforesaid decisions, it is by now well-settled law that under the Land Acquisition Act, the subsequent purchaser cannot challenge the acquisition proceedings and that he would be only entitled to get the compensation."

7.4. In *V. Chandrasekaran* v. *Administrative Officer*[*V. Chandrasekaran* v. *Administrative Officer*, (2012) 12 SCC 133: (2013) 2 SCC (Civ) 136: (2013) 4 SCC (Cri) 587: (2013) 3 SCC (L&S) 416], the Court has considered various decisions and opined that the purchaser after Section 4 notification could not challenge land acquisition on any ground whatsoever. The Court observed: (SCC pp. 143-44, paras 15 & 18)

"***15*. The issue of maintainability of the writ petitions by the person who purchases the land subsequent to a notification being issued under Section 4 of the Act has been considered by this Court time and again**. In *Lila Ram* v. *Union of India* [*Lila Ram* v. *Union of India*, (1975) 2 SCC 547], this Court held that anyone who deals with the land subsequent to a Section 4 notification being issued, does so, at his own peril. In *Sneh Prabha* v. *State of U.P.* [*Sneh Prabha* v. *State of U.P.*, (1996) 7 SCC 426] , **this Court held that a Section 4 notification gives a notice to the public at large that the land in respect to which it has been issued, is needed for a public purpose, and it further points out that there will be 'an impediment to anyone to encumber the land acquired thereunder'. The alienation thereafter that does not bind the State or the beneficiary under the acquisition. The purchaser is entitled only to receive compensation.** While deciding the said case, reliance was placed on an earlier judgment of this Court in *Union of India* v. *Shivkumar Bhargava*[*Union of India* v. *Shivkumar Bhargava*, (1995) 2 SCC 427].

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18. In view of the above, *the law on the issue can be summarised to the effect that a person who purchases land subsequent to the 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*."

(emphasis supplied)

7.5. In *Rajasthan State Industrial Development & Investment Corpn.* v. *Subhash Sindhi Coop. Housing Society* [*Rajasthan State Industrial Development & Investment Corpn.* v. *Subhash Sindhi Coop. Housing Society*, (2013) 5 SCC 427: (2013) 3 SCC (Civ) 121], it is laid down: (SCC p. 435, para 13)

"***13*. There can be no quarrel with respect to the settled legal proposition that a purchaser, subsequent to the issuance of a Section 4 Notification in respect of the land, cannot challenge the acquisition proceedings, and can only claim compensation as the *sale transaction in such a situation is void qua the Government*. Any such encumbrance created by the**

> **owner, or any transfer of the land in question that is made after the issuance of such a notification would be deemed to be void and would not be binding on the Government**. (Vide : *Gian Chand* v. *Gopala* [*Gian Chand* v. *Gopala*, (1995) 2 SCC 528] ; *Yadu Nandan Garg* v. *State of Rajasthan* [*Yadu Nandan Garg* v. *State of Rajasthan*, (1996) 1 SCC 334] ; *Jaipur Development Authority* v. *Mahavir Housing Coop. Society* [*Jaipur Development Authority* v. *Mahavir Housing Coop. Society*, (1996) 11 SCC 229] ; *Jaipur Development Authority* v. *Daulat Mal Jain* [*Jaipur Development Authority* v. *Daulat Mal Jain*, (1997) 1 SCC 35] ; *Meera Sahni* v. *State (NCT of Delhi)* [*Meera Sahni* v. *State (NCT of Delhi)*, (2008) 9 SCC 177] ; *Har Narain* v. *Mam Chand* [*Har Narain* v. *Mam Chand*, (2010) 13 SCC 128 : (2010) 4 SCC (Civ) 793] ; and *V. Chandrasekaran* v. *Administrative Officer* [*V. Chandrasekaran* v. *Administrative Officer*, (2012) 12 SCC 133 : (2013) 2 SCC (Civ) 136 : (2013) 4 SCC (Cri) 587 : (2013) 3 SCC (L&S) 416] .)"
>
> (emphasis supplied)

7.6. A three-Judge Bench in *Rajasthan Housing Board* v. *New Pink City NirmanSahkari Samiti Ltd.* [*Rajasthan Housing Board* v. *New Pink City NirmanSahkari Samiti Ltd.*, (2015) 7 SCC 601], in the context of Section 4 as well as Section 42 of the Rajasthan Tenancy Act which also prohibited the transactions from being entered into with SC/ST persons, has observed: (SCC pp. 625-27, paras 33-34)

> "*33*. The other decision relied upon by the Society is *V. Chandrasekaran* v. *Administrative Officer* [*V. Chandrasekaran* v. *Administrative Officer*, (2012) 12 SCC 133 : (2013) 2 SCC (Civ) 136 : (2013) 4 SCC (Cri) 587 : (2013) 3 SCC (L&S) 416] wherein this Court laid down thus : (SCC p. 144, paras 17-18)
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> `*17*. In *Ajay Krishan Shinghal* v. *Union of India* [*Ajay Krishan Shinghal* v. *Union of India*, (1996) 10 SCC 721] ; *Mahavir* v. *Rural Institute* [*Mahavir* v. *Rural Institute*, (1995) 5 SCC 335] ; *Gian Chand* v. *Gopala* [*Gian Chand* v. *Gopala*, (1995) 2 SCC 528] and *Meera Sahni* v. *State (NCT of Delhi)* [*Meera Sahni* v. *State (NCT of Delhi)*, (2008) 9 SCC 177] , **this Court categorically held that a person who purchases land after the publication of a Section 4 notification with respect to it, is not entitled to challenge the proceedings for the reason, that his title is void and he can at best claim compensation on the basis of vendor's title. In view**

of this, the sale of land after issuance of a Section 4 notification is void, and the purchaser cannot challenge the acquisition proceedings. (See also *Tika Ram* v. *State of U.P.* [*Tika Ram* v. *State of U.P.*, (2009) 10 SCC 689: (2009) 4 SCC (Civ) 328])

***18*. In view of the above, the law on the issue can be summarised to the effect that a person who purchases land subsequent to the 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*.'**

… … …

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.

… … …

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."

(Emphasis supplied)

Again, the Apex Court in the case of **DELHI DEVELOPMENT AUTHORITY v. DAMINI WADHWA**[4], has held as follows:

"…. …. ….

> **13. Be that it may, even considering the fact that the agreement to sell was of the year 2016 and considering the fact that the notification under Section 4 of the 1894 Act was issued on 25-11-1980, therefore, it is apparent that the original writ petitioner allegedly derived the interest in the lands in question much after the acquisition proceedings were initiated and therefore, Respondent 1 — original writ petitioner can be said to be subsequent purchaser**. In the recent decision of this Court in *Godfrey Phillips* [*DDA* v. *Godfrey Phillips (I) Ltd.*, (2022) 8 SCC 771 : (2022) 4 SCC (Civ) 525] after considering the other decisions on the right of the subsequent purchaser to claim lapse of acquisition proceedings i.e. *Meera Sahni* v. *Lt. Governor of Delhi* [*Meera Sahni* v. *Lt. Governor of Delhi*, (2008) 9 SCC 177] and *M. Venkatesh* v. *BDA* [*M. Venkatesh* v. *BDA*, (2015) 17 SCC 1 : (2017) 5 SCC (Civ) 387] **, it is specifically observed and held that subsequent purchaser has no right to claim lapse of acquisition proceedings. Similar view has been expressed by the larger Bench judgment of this Court in *Shiv Kumar* v. *Union of India* [*Shiv Kumar* v. *Union of India*, (2019) 10 SCC 229: (2020) 1 SCC (Civ) 82].**
>
> **14. Under the circumstances and even accepting the case on behalf of the original writ petitioner that she might have acquired some interest on the basis of the agreement to sell dated 22-5-2016, being a subsequent purchaser and/or having acquired the interest in the lands in question subsequently, she was not having any right to claim lapse of acquisition proceedings under Section 24(2) of the 2013 Act. Under the circumstances, the High Court erred in entertaining the writ petition preferred by Respondent 1 — original writ petitioner claiming lapse of acquisition proceedings under the 2013 Act."**
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> (Emphasis supplied)

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[4] (2022) 10 SCC 519

13. On a blend of the judgments rendered by the Apex Court (*supra*), what would unmistakably emerge is, that a subsequent purchaser, either subsequent to the notification issued under Section 4 or under Section 6 of the Land Acquisition Act, 1894 has no locus to challenge the acquisition proceedings. If one has purchased a property subsequent to acquisition, it would be at their peril. With the law being as clear as noon day, it would not require this Court to delve into the matter, except a re-look at the dates and events.

14. As noticed earlier, the preliminary notification is issued on 22-09-1970 and final notification is issued on 15-07-1971. The petitioner who purchases the property that is already subject matter of acquisition, 25 years after the acquisition on 04-10-1995, has now approached this Court after 53 years of acquisition on 29-09-2023. With the dates and events being thus, the law declared by the Apex Court would squarely become applicable to the facts obtaining in the case at hand, to hold that the petitioner ostensibly being a subsequent purchaser, cannot be seen to be having a right to challenge the acquisition proceedings.

15. Several judgments are sought to be relied on by the learned senior counsel for the petitioner, a few of them of the Division Bench and the coordinate Bench of this Court. In the light of the judgments of the Apex Court, the judgments of this Court would not become applicable to be followed, as the law declared by the Apex Court is what is to be followed and if followed what follows would be rejection of the petition as, **the petitioner has neither demonstrated any subsisting title to site No.828 in Sy.No.54/1, nor shown such site was ever excluded from the acquisition. In the absence of such foundational assertions, let alone proof, the claim of the petitioner collapses under the weight of its own infirmities.**

16. For the aforesaid reasons, finding no merit in the petition, the petition stands ***dismissed***. Interim order if any operating, shall stand dissolved.

Consequently, I.A.No.2 of 2024 also stands disposed.

Sd/-
(M.NAGAPRASANNA)
JUDGE

bkp
CT:MJ