

(2019) 07 KAR CK 0038

In the Karnataka High Court

Case No : Writ Petition No. .23071, 23074, 23073 Of 2019 (LA-KIADB)

B R Srinivas

APPELLANT

Vs

State Of Karnataka And Ors

RESPONDENT

Date of Decision : 26-07-2019

Acts Referred:

Right to Fair Compensation And Transparency in Land Acquisition, Rehabilitation And Resettlement Act, 2013 — Section 24
Karnataka Industrial Areas Development Act, 1966 — Section 3(1), 11A, 28(1), 28(2), 28(5), 28(6), 29(2), 30, 31(4) 31(5), 32(4), 33
Maharashtra Industrial Development Act, 1961 — Section 31(4), 31(5)
Land Acquisition Act, 1894 — Section 11A, 12(2)
Constitution Of India, 1950 — Article 14, 19, 19(f), 31A, 31, 226, 227, 300A

Citation : (2019) 07 KAR CK 0038

Hon'ble Judges : Alok Aradhe, J

Bench : Single Bench

Advocate : Jayakumar S. Patil Sr, M.B. Chandrachooda, E.S. Indireshe Aga, Udaya Holla SR, Vijaya Kumar A Patil, Swamini G. Mohanambal, Sandeep Patil

Final Decision : Disposed Off

Judgement

1. Mr.Jayakumar S.Patil, Learned Senior Counsel for Mr.M.B.Chandrachooda, learned counsel for the petitioner.

Mr.E.S.Indireshe, learned Additional Government Advocate for respondent Nos.1, 5 & 6.

Mr.Udaya Holla, Learned Senior Counsel for Mr.Vijaya Kumar A.Patil, learned counsel for respondent Nos.2 & 3.

Ms.Swamini G. mohanambal, learned counsel for Mr.Sandeep Patil, learned counsel for respondent No.4.

Petitions are admitted for hearing. With consent of the learned counsel for the parties, the same are heard finally.

2. In these petitions under Articles 226 & 227 of the Constitution of India, the petitioner inter alia seeks quashment of the Notifications dated 25.04.2005 and 05.08.2005 issued by respondent No.1 insofar as it pertains to land bearing Sy.No.3/1 measuring 1 acre 25 guntas of Kadubeesana Halli Village Bengaluru East Taluk. The petitioner also seeks a declaration that Notification dated 25.4.2005 and 05.08.2005 issued by respondent No.1 have lapsed on account of non implementation of the project in view of Section 24 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. The petitioner has also assailed the vires of Section 28(5) of the Karnataka Industrial Areas Development Act, 1966 (hereinafter referred to as 'the Act' for short), which provides for vesting of the land free from all encumbrances on the date of publication in the official gazette as ultra vires to Article 300-A and Article 19 of the Constitution of India.

3. Facts giving rise to filing of the writ petition briefly stated are that land measuring 2 acres 22 guntas forming part of Sy.No.3/1 situate at Kadubeesana Halli, Bengaluru East Taluk is the ancestral property of the grand father of the petitioner viz., Chikkakrishnappa. It is averred in the writ petition that on the death of the grand father of the petitioner in a family partition, land measuring 1 acres 25 guntas situated at Kadubeesana Halli has been allotted to the share of the father of the petitioner. The name of the father of the petitioner was entered in the revenue records. After the death of the father of the petitioner on 01.05.1999, the petitioner's name has been entered in the revenue records in respect of the land in question. The petitioner claims to be in possession of the aforesaid land. It is also averred in the writ petition that the petitioner has constructed a residential house and seven shops of the property in question.

4. The respondent No.1 issued Notification on 25.04.2005, a Notification under Sections 3(1) and 28(1) of The Karnataka Industrial Areas Development Act, 1966 was issued for acquisition of lands in Kadubeesana Halli, Varthur, Hobli, Bengaluru East Taluk. It is averred in the writ petition that the petitioner was not aware about the Notification dated 25.04.2005 as he was not served with the notice at any point of time. It is also pleaded in the petition that without conducting any enquiry, a Notification dated 05.08.2005 was issued invoking provisions of Section 28(5) of the Act wherein the land of the petitioner measuring 1 acre 25 guntas has been notified for acquisition for public purpose. It is also stated in the petition that no public purpose is involved in the acquisition of the land in question and the declaration dated 25.04.2005 is illegal and unjust. The respondent No.4 sent a communication to respondent No.2 for delivery of possession in respect of property notified for acquisition. The respondent No.4 thereupon sent a communication to Commissioner of Police to provide police help to dispossess the petitioner. Thereafter, the respondent Nos.2 and 3 along with the police visited the property in question and have demolished the existing compound wall of the western side of the house illegally. The petitioner submitted a communication to respondent Nos.2 and 3 for grant of time to vacate the premises on 30.05.2019. In the aforesaid factual background,

the petitioner has approached this court.

5. Learned Senior Counsel for the petitioner submitted that Notification under Section 28(1) of the Act was issued on 25.04.2005 and the initially an award was passed on 28.02.2014 and subsequently, in respect of the structure situate on the land of the petitioner, the award was passed on 02.03.2018 i.e., after an inordinate delay of 9 years and 13 years respectively which itself vitiates the proceeding of acquisition in law. It is also pointed out that even before passing of the award, the possession was taken on 10.10.2005. In this connection, attention of the court has been invited to Annexure-R9 annexed to the objection. It is also submitted that in fact the possession was not taken on 10.10.2005 as the respondents themselves have denotified the land comprised in Survey Nos.3/2 and 4 by a Notification dated 12.07.2010. It is further submitted that the action of the respondent is in violation of Articles 31A and 300A of the Constitution of India. In support of aforesaid submission, reliance has been placed on division bench decision of this court in 'SRI.H.N.SHIVANNA VS. STATE OF KARNATAKA', 2013 (4) KCCR 2793.

6. It is further submitted that Section 28(5) of the Act, is unreasonable and is arbitrary and is discriminatory. It is further submitted that the aforesaid provision deprives the person of his property without even payment of compensation and no time limit has been prescribed for payment of compensation. It is further submitted that the aforesaid provision renders the provision for payment of compensation illusory. It is also submitted that a fundamental or a constitutional right can be taken away or curtailed in the manner provided in the constitution. In support of aforesaid submission, reference has been made to 'SALABUDDIN MOHAMMED YOUNUS VS. STATE OF A.P.', AIR 1984 SC 1905.

7. Learned Senior counsel for the petitioner has urged that actual possession of the property in question was never taken and there is no delay on the part of the petitioner in approaching the Court. It is further submitted that the petitioner approached this court when he was threatened with dispossession. It was also pointed out that the petitioner was deprived of opportunity to file objections as provided under Section 28(2) of the Act. It is also pointed out from the record that in Annexure-R1 there is only an endorsement that the petitioner has received the notice under Section 28(1) of the Act. However, in Annexure-R1, neither the signature of the petitioner nor signature of any person who has allegedly received the notice on behalf of the petitioner. In support of aforesaid submission, learned Senior Counsel for the petitioner has relied on a decision in 'SRI.VENUGOPAL V.R. & OTHERS VS. STATE OF KARNATAKA', 2018 (1) KCCR 336, AIR 1973 SC 687, 'J.VENKATESH REDDY VS. STATE OF KARNATAKA', ILR 2017 KAR 3577, AIR 2017 SC 904, 'M.NAGABHUSHANA VS. STATE OF KARNATAKA AND OTHERS', (2011) 3 SCC 408, and 'THOMAS PATRO SINCE DEAD BY LRS. VS. STATE OF KARNATAKA', ILR 2005 KAR 4199.

8. Learned Advocate General for respondent Nos.1, 5 & 6 submitted that vires of Section 28(5) & (6) of have already been upheld by a Bench of this Court in

'KISHANLALS DALWANI VS. K.NAGANNA' (1975) 1 KLJ 247, it is also argued that a pari materia provision in Maharashtra Industrial Development Act, 1961 viz., Sections 31(4) and 31(5) has already been upheld by the Supreme Court in 'SHRI RAM TANU COOPEATIVE HOUSING SOCIETY LTD., AND ANR. VS. STATE OF MAHARASHTRA AND OTHERS', (1970) 3 SCC 323.

It is also pointed out that a pari materia provision contained in the Gujarat Industrial Development Corporation Act was held to be within legislative competence of the state legislature by the Supreme Court in 'PARSHOTTAM JADAVJI JENI VS. STATE OF GUJARAT AND OTHERS', (1971) 1 SCC 843. It is also contended that Section 30 of the Act clearly provides that the provisions of the land acquisition act apply only in respect of enquiry and award by the deputy commissioner and the act neither expressly nor impliedly incorporates Section 11A of the Act. In this connection, reliance has been placed on division bench decision of this Court in 'K.BALAKRISHNA AND ANOTHER VS. STATE OF KARNATAKA', (2002) 4 KAR L.J.10. It is also argued that in case this court comes to a conclusion that there has been a delay in conclusion of the proceeding, the petitioner is entitled to compensation at the enhanced rate. It is also contended that once the land vests in the State Government under the Act, it does not contain any provision to reversion of the land to the owner. Learned counsel for respondent No.5 has adopted the submissions made by learned Advocate General and has submitted that possession of the land in question has already been handed over to respondent No.5 and it has commenced the development work.

9. By way of rejoinder reply, Learned Senior Counsel for the petitioner submitted that in 'KISHANDAS DALWANI supra, the provisions of Sections 28(5) & (6) of the Act were not under challenge and the decision of the Supreme Court in SHRIRAMTANU supra is an authority for the proposition that on account of dissimilar provision for acquisition of the land, the benefit of Article 14 of Constitution of India would not enure to the land owner. It is also submitted that the decision viz., in the case of SHRIRAMTANU supra is impliedly over ruled by the Supreme Court in NAGPUR IMPROVEMENT TRUST CASE VIZ., AIR 1973 SC 689. It is pointed out that case of SHRIRAMTANU, the Supreme Court was considering the question whether the different procedure for acquisition of land by the company can be prescribed by the statute and the aforesaid question was answered in the affirmative. It is also urged that as per the mahazar Annexure-R9 the possession is said to have taken on 10.10.2005, however, subsequently by a Notification dated 12.07.2010, which was published in gazette dated 13.07.2010, land measuring 38 acres 25 guntas of Sy.No.3/2B and Sy.BNo.4 respectively has been denotified. Thus, the claim of the respondents that they have taken possession of the property in question on 10.10.2005 is not correct. It is also submitted that Article 14 of Constitution of India is an individual right and the land owner is not concerned as to under which provision his land is acquired. It is also argued that the writ petition does not suffer from delay and laches. In support of aforesaid submission, reference has been made to decision

of the Supreme Court in 'RAMCHAND AND OTHERS VS. UNION OF INDIA AND OTHERS', (1994) 1 SCC 44 and it is submitted that question of delay has to be considered along with inaction on the part of the authorities. In the instant case, the petitioner has been permitted to continue in possession till the month of April, 2019 and when the interference with his possession was made, the petitioner approached this court by filing the petition.

10. It is also urged that Section 28(5) of the Act excludes the concept of delay and therefore, the petitioner is challenging the vires of the aforesaid provision the substantial ground of deprivation of property. It is also urged that Section 28(5) of the Act is an arbitrary provision, which allows the authority to act in arbitrary provision. It is submitted that Section 28(5) of the Act renders the provision pertaining to compensation illusory and the same is violative of Proviso to Article 31A and Article 300-A of the Constitution of India.

11. I have considered the rival submissions and have perused the record. Before proceeding further, it is apposite to refer to well settled legal principles with regard to delay and laches. In 'M/S DEHRI ROHTAS LIGHT RAILWAY COMPANY LIMITED VS. DISTRICT BOARD, BHOJPUR AND OTHERS', (1992) 2 SCC 598, while dealing with the issue whether the appellant should be deprived of the relief on account of laches and delay, it has been held that the court may not enquire into belated and stalled claim is not a rule of law but a rule of practice based on sound and proper exercise of discretion. It has further been held that principle on which relief to a party on the ground of laches of delay is denied is that the rights which have accrued to others by reason of delay in filing the petition should not allowed to be disturbed unless there is a reasonable explanation to the delay. The real test to determine delay in such cases is that the petitioner should come to the writ court before a parallel right is created and the lapse of time is not attributable to any laches or negligence. Similar view was taken in 'HINDUSTAN PETROLEUM CORPORATION LTD. AND ANOTHER VS. DOLLY DAS', (1999) 4 SCC 450 wherein it was held that delay itself may not defeat the petitioner's claim for relief unless position of the respondent has been irretrievably altered or he is put to a new hardship. Similar view has been in 'BOMBAY DYEING AND MFG. & MFG. CO. LTD. (3) VS. BOMBAY ENVIRONMENTAL ACTION GROUP', 2006 3 SCC 434 it has been held that delay is a very important factor while exercising extraordinary jurisdiction under Article 226 of the Constitution of India and the court should not come to a rescue of a person who is not vigilant of his rights. In 'M.P.RAM MOHAN RAJA VS. STATE OF T.N. AND OTHERS', (2007) 9 SCC 78, it was held that a person who approaches the court with delay without any justifiable reason cannot be given any benefit. It has further been held that delay and laches is adopted as a mode of discretion to decline exercise of jurisdiction to grant relief. Delay and laches is one of the facets to deny the exercise of discretion. [SEE: TUKARAM KANA JOSHI VS. MAHARASHTRA INDUSTRIAL DEVELOPMENT CORPN.', (2013) 1 SCC 353. similar view has been taken in the 'STATE OF J & K Vs. R.K.ZALPURI', (2015) 15 SCC 602 and it has been held that a writ court while deciding the writ petition is

required to remain alive and an unexplained delay on the part of the writ petitioner. It has further been held that stale claims are not to be adjudicated unless non interference would cause grave injustice.

12. In the backdrop of aforesaid well settled legal principles and in view of the rival submissions made by the parties, the following issues arise for consideration in this writ petition:

(i) Whether Section 28(5) of the Act is ultra vires to Article 300-A and Article 19 of the Constitution of India?

(ii) Whether the land acquisition proceeding are vitiated in law on account of inordinate delay in passing the award and are what relief the petitioner is entitled to?

(iii) Whether the writ petitions filed by the petitioner suffer from delay and laches?

(iv) Whether the conduct of the petitioner disentitles him to any relief in exercise of extraordinary discretionary jurisdiction under Article 226 of the Constitution of India?

I shall now proceed to deal with the issues ad- seriatim:

RE:ISSUE NO.1:

13. Before proceeding further, it is apposite to take note of Section 28(5) of the Act, which reads as under:

28. Acquisition of land.-

(1) xxxxxx

(2) xxxxxx

(3) xxxxxx

(4) xxxxxxxx

(5) On the publication in the official Gazette of the declaration under sub-section (4), the land shall vest absolutely in the State Government free from all encumbrances.

14. Undoubtedly in G.M.RAMAKRISHNAPPA the prayer was not made to declare Section 28(5) of the Act as ultra vires, yet the contention was raised on the ground that provisions of Sections 28(5) and 28(6) of the Act are violative of Article 14 of the Constitution of India. The aforesaid contention was repelled by a Bench of this Court, which reads as under:-

It is, therefore, contended that there being no guidance as to which of the two Acts, viz., the Act and the Land Acquisition Act, should be resorted to for purposes of acquisition, the provisions of the Act should be held to be violative of

Articles 14 of the Constitution.

I do not think that there is any substance in the above contention. The Land Acquisition Act is a general law in force in the State providing for acquisition of lands for public purpose. But the Act was enacted to make special provisions for securing the establishment of Industrial areas in the State of Karnataka and generally to promote establishment and development of industries therein and for that purpose to establish an Industrial Area Development Board. The Act is intended to meet the purpose, namely, the establishment of Industrial areas and industrial estates in the State of Karnataka. Rejecting a similar contention urged as against the validity of the provisions of the Maharashtra Industrial Development Act, the Supreme Court in SHRI RAMTANU CO-OPERATIVE HOUSING SOCIETY LTD. & ANOTHER -VS-STATE OF MAHARASHTRA AND OTHERS (A.I.R. 1970 SUPREME COURT 1771), observed that there was no procedural discrimination between the Maharashtra Industrial Development Act and the Land Acquisition Act, as the Maharashtra Industrial Development Act was a special one having the specific and special purpose of growth, development and organization of industries in the State of Maharashtra and that Act had its own procedure for the said purpose. It was observed that the Land Acquisition Act was a general Act and that the two acts were dissimilar in situations and circumstances. It was, therefore, held that the contention based on Article 14 of the Constitution, was untenable. For the same reasons, the contention urged on behalf of the petitioner that Sub-sections (5) and (6) of Sec.28 of the Act, are violative of Article 14 of the Constitution, has to be rejected and it is accordingly rejected.

15. At this stage it is pertinent to take note of Section 32(4) of Maharashtra Industrial Development Act, 1961, which is reproduced below for the facility of reference -

When a notice under sub-section

(1) is published in the Official Gazette the land shall on and from the date of such publication vest absolutely in the State Government free from all encumbrances;

Provided that if before actual possession of such land is taken by or on behalf of the State Government, it appears for the State Government that the land is no more required for the purposes of this Act, the State Government may, by like notice, withdraw the land from acquisition and on the publication of such notice in the Official Gazette, the land shall revert with retrospective effect in the person in whom it was vesting immediately before the publication of the notice under sub-section (1), subject to such encumbrances, if any, as may be subsisting at that time. The owner and other persons interested shall be entitled to compensation for the damage, if any, suffered by them in consequence of the acquisition proceedings as determined in accordance with the provisions of Section 33.

16. Thus from a conjoint reading of Section 28(5) of the Act and Section 32(4) of the Maharashtra Industrial Development Act, 1961, it is evident that aforesaid provisions are of pari materia. The validity of the Maharashtra Industrial Development Act, 1961 was challenged before the Supreme Court inter alia on the grounds that State has no legislative competence and the Act was violative of Article 14 of the Constitution of India. However, the aforesaid contentions were negated by the Supreme Court in SHRI RAMTANU supra. A similar view was taken by the Supreme Court while dealing with provisions of Gujarat Industrial Development Corporation Act 1962 in PARSHOTTAM JADAVJI JENI supra.

17. It is well settled in law that once validity of provision is upheld by Court, all grounds must have been presumed to have been considered by the Court and fresh litigation, therefore challenging validity of same provision on additional grounds is barred by principles of res judicata. Once a point is finally decided by a court, it is binding or cannot be reopened [SEE: 'KESHO RAM AND CO. VS. UNION OF INDIA', (1989) 3 SCC 151 AND 'SUBRAMANIAN SWAMY VS. RAJU', (2014) 8 SCC 390]. Therefore, in view of finding recorded by this Court with regard to validity of Section 28(5) of the Act in G.M.RAMAKRISHNAPPA'S case as well as decisions of Supreme Court while dealing with challenge to pari materia provisions in the case of Maharashtra and Gujarat Act and in view of law laid down by Supreme Court in KESHORAM VS. SUBRAMANIAN SWAMY supra, it is not open to the petitioner to lay a fresh challenge to Section 28(5) of the Act on the ground that same is violative of Articles 14, 19(f) erstwhile Article 31, proviso to Article 31 and Article 300-A of the Constitution of India. Therefore, the submission that decision in SHRI RAMTANU has been impliedly overruled in NAGPUR IMPROVEMENT TRUST'S case supra has no bearing on the issue involved in this writ petition. Therefore, the first issue is answered in the negative.

RE-ISSUE Nos.2 and 3:-

18. In the instant case Notification was issued under Sections 3(1) and 28(1) of the Act for acquisition of lands on 25-04-2005. Thereafter notice was issued on 28-04-2005 to KIADB and others to file their objections. Thereafter, a public notice was issued in two Daily news papers (Annexure R-2 and Annexure-R-

3) regarding the proposal for acquisition of various lands including the Schedule Property, inviting objections. On 05-08-2005 Final Notification under Section 28(5) of the Act was issued, for acquisition of various lands including Schedule lands. A notice under Section 28(6) of the Act was issued to surrender possession of the Scheduled Property, which was received by petitioner's sister Smt.Parvathamma, who has put her signature on the reverse of notice (Annexure R4). The aforesaid fact has not been denied in the amended petition which is filed subsequent to filing of objections. A meeting was convened by the Board for fixation of compensation for acquisition of land by consent, on 30-09-2005/01-10-2005. The notice was sent to the petitioner, which was received by sister of the petitioner viz., Smt.Parvathamma (Annexure R5). On

05-10-2005 another notice under Section 29(2) of the Act for assessment of the compensation, which was received by sister of the petitioner who signed on the reverse of notice (Annexure R6). The aforesaid notice was sent by registered post, which was received by the petitioner himself, which is evident from the postal acknowledgement (Annexure R7). The aforesaid fact has not been controverted by the petitioner given in amended petition.

19. It is pertinent to note that brother of the petitioner who is owner of the adjacent land challenged the notification dated 05-08-2005 issued under Section 28(4) of the Act in a writ petition before this Court which was disposed of by order dated 25-01-2012, passed with consent of the parties, wherein, the brother of the petitioners agreed to acquisition of 30 guntas of land. On 10-10-2005 a mahazar was drawn taking over possession of the property in question. Thereafter an award was passed on 28-02-2014 and an award notice (Annexure R11) was issued on 31-07-2014 to the petitioner under Section 12(2) of the Land Acquisition Act. On 28-10-2014 the Board deposited the entire amount of compensation and intimation was sent to the petitioner through registered post. The postal receipt and acknowledgments have been annexed as Annexure R12. Thereafter an award was passed in respect of superstructure on 02-03-2018.

20. Thus from above narration of facts, it is evident that petitioner was aware about the proceedings in question since 2005. In K.BALAKRISHNA AND ANOTHER Division Bench of this Court has held that Section 11-A of the Land Acquisition Act 1894, has not been expressly nor impliedly incorporated by reference in the Act and when the land vests absolutely in the State Government free from all encumbrances, the Act does not contain any provision for reversion of the vested land to the owners.

21. The land is acquisition viz., 9 acres and 16 guntas has been acquired for establishment of integrated Business Park, involving Development of Hotel, Information, Technology Park and commercial centre with an investment of Rupees 39.59 Crores. The respondent No.4 had submitted an application before the State Level Single Window Agency which was approved on 16-08-2004 and decision was taken to allot land in question to the petitioner. The possession of land in question has been handed over to respondent No.4 on 09-10-2015, 20-04-2018 and 05-06-2018. Thereafter respondent No.4 has obtained sanction to develop the property by making payment of fee to the statutory body and has also obtained approval on 25-05-2016 from Karnataka State Pollution Control Board for the Project. It is averred in the statement of objections of respondent No.4 that it has taken development works in and around Scheduled Property and has invested huge sums. The photographs with regard to Development works Annexure R11 have also been annexed with objections.

22. As stated supra the petitioner was aware about acquisition proceedings since 2005 as he had received the notice (Annexure R7) for assessment of compensation. The Brother of the petitioner also, who owns the adjacent land

had filed a writ petition which was disposed of in the year 2012. The other notices were received by the sister of the petitioner. Therefore it is not possible to accept the contention of the petitioner that he derived knowledge about the proceeding only in the year April 2019. The Award was passed on 28-02-2014, in respect of land of petitioner. The petitioner even then waited for 5 years to approach this Court for which no explanation has been offered. The Award in respect of superstructure has been passed on 02-03-2018. Thereafter also petitioner waited for more than a year to file this Writ Petition for which no explanation has been offered. Thus the irresistible conclusion is that the writ petition suffers from delay and laches.

23. Though notice for Assessment of compensation under Section 29(2) of the Act was issued on 05-10-2005, yet the awards have been passed on 28-02-2014 and 02-03-2018. There has been delay in passing the award. However on account of inaction on the part of petitioner, despite having knowledge of the proceeding, respondent No.4 has acquired rights in the property and has carried out developmental work. Therefore at this stage, in case, any interference is made respondent No.4 shall be put to hardship. Therefore in the fact situation of the case, no case for interference is made out.

Accordingly issued nos. 2 and 3 are answered.

RE: ISSUE No.4:-

24. It is a fundamental principle of law that a person invoking the extraordinary jurisdiction under Article 226 of the Constitution of India must approach the Court with clean hands and should not conceal material facts. It has further been held that there is necessity to save judicial process from becoming abuse to subvert justice. The need to approach the Court with clean hands is all the more necessary as Law is not a game of chess [SEE: 'RAMJAS FOUNDATION VS. UNION OF INDIA', 1993 SUPP (2) SCC 20, 'RAJKUMAR SANI VS. STATE OF U.P.', (2007) 10 SCC 635, 'MANOHARLAL VS. UGRASEN', (2010) 11 SCC 557, AND 'AMARSINGH VS. UNION OF INDIA', (2011) 7 SCC 69].

25. In the instant case, petitioner in para 15 of the writ petition was averred that petitioner was not aware about the Notification dated 25.04.2005 and Notification dated 05.08.2005 and was not served with any notice with regard to acquisition of notice at any point of time and learnt about the same only on 04.05.2019 when respondents 2 and 3 issued a threat of demolition of buildings of petitioner. Thus from the facts narrated in the preceding paragraphs which all not being referred to, to avoid repetition, it is axiomatic that petitioner has not approached this Court with clean hands and is guilty of suppression of material facts. On this ground alone, the petitioner is not entitled to any discretionary relief in exercise of jurisdiction under Article 226 of the Constitution of India. Accordingly the aforesaid issue is answered.

26. In view of preceding analysis, no case for interference is made out. However liberty is granted to the petitioner to seek enhancement of compensation in

accordance with law, if so advised.