

(2014) 02 AHC CK 0049

In the Allahabad High Court

Case No : Civil Misc. Writ Petition Nos. 1506 and 1856 of 2014

Moti Lal Goel and Another

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 14-02-2014

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 9
Constitution of India, 1950 — Article 136, 226
Land Acquisition Act, 1894 — Section 11, 11A, 13A, 16, 17(1)
Uttar Pradesh Urban Planning and Development Act, 1973 — Section 14, 15
Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 — Section 143

Citation : (2014) 2 ADJ 687 : (2014) 2 ALJ 625 : (2014) 103 ALR 540 : (2014) 3 AWC 3197 : (2014) 123 RD 445 : (2014) 2 UPLBEC 1408

Hon'ble Judges : Mahesh Chandra Tripathi, J; Ashok Bhushan, J

Bench : Division Bench

Advocate : Siddhartha Varma and Mahendra Pratap, Advocate for the Appellant; Bal Krishna, Mahendra Pratap and R.B. Yadav, Advocate for the Respondent

Judgement

Mahesh Chandra Tripathi, J.—Heard Sri S.K. Varma, learned Senior Advocate assisted by Sri Siddhartha Varma, learned counsel for the petitioners, Sri Mahendra Pratap, learned counsel for respondent No. 4 i.e. Ghaziabad Development Authority and Sri Bal Krishna, learned Additional Chief Standing Counsel for the respondent Nos. 1 to 3. The writ petition is being finally disposed of with the consent of learned counsel for the parties, at the admission stage itself. Since questions of law and fact involved in these two writ petitions are identical and as such they have been connected and heard together and are decided by a common order.

2. In the Writ Petition No. 1506 of 2014, petitioners have prayed for following reliefs:

a. To issue a suitable writ, order or direction in the nature of certiorari quashing the impugned award dated 3.12.2013 passed by the respondent No. 3 (Annexure No. 8 to the writ petition) and may further be pleased to issue a writ of

mandamus directing the respondents that they may exclude plot No. 89 area 1 Bigha 6 Biswa and plot No. 90 area 1 Bigha 4 Biswa, situate in Village Hasanpur Bhowapur, Pargana Loni, Tehsil and District Ghaziabad, from the notifications under Sections 4 and 6 of the Land Acquisition Act issued on 16.8.1988 and 14.10.1988 (Annexure Nos. 1 and 2 respectively to this writ petition), as they had lapsed in respect of plot No. 89 area 1 Bigha 6 Biswa and plot No. 90 area 1 Bigha 4 Biswa situate in village Hasanpur Bhowapur, Pargana Loni, Tehsil and District Ghaziabad.

b. Issue a suitable writ, order or direction in the nature of mandamus directing the respondents not to interfere with the ownership and possession of the petitioners over plot No. 89 area 1 Bigha 6 Biswa and plot No. 90 area 1 Bigha 4 Biswa, situate in village Hasanpur Bhowapur, Pargana Loni, Tehsil and District Ghaziabad.

c. Issue a writ of mandamus directing the respondent No. 1 that if it considers that the notifications u/s 4 and 6 of the Land Acquisition Act issued on 16.8.1988 and 14.10.1988 respectively (Annexure Nos. 1 and 2, respectively, to this writ petition) continues then as per its own letter dated 5.10.2012 (Annexure No. 11 to this writ petition) and the order of the Chairman, Board of Revenue, U.P. Lucknow, dated 23.10.2008 and 31.12.2013 and the Government Orders dated 16.2.2009, 29.7.2013 and 5.8.2013 and other relevant documents, which are collectively annexed as Annexure No. 10 to this writ petition, to withdraw the notifications under Sections 4 and 6 of the Land Acquisition Act issued on 16.8.1988 and 14.10.1988, respectively concerning the plot No. 89 area 1 Bigha 6 Biswa and plot No. 90 area 1 Bigha 4 Biswa, situate in Village Hasanpur Bhowapur, Pargana Loni, Tehsil and District Ghaziabad, as is permissible u/s 48 of the Land Acquisition Act within the period specified by this Hon'ble Court.

d. Issue any other suitable writ, order or direction, which this Hon'ble Court may deem just and proper in the facts and circumstances of the case and in the interest of justice.

e. Award cost of petition to petitioners.

3. By an amendment application prayer "A" has been substituted by following prayer "A". The same is given below as under:

A. To issue a suitable writ, order or direction in the nature of certiorari quashing the impugned award dated 3.12.2013 passed by the respondent No. 3 (Annexure No. 8 to the writ petition) and may further be pleased to issue a writ of mandamus directing the respondents that they may exclude plot No. 89 area 1 Bigha 6 Biswa and plot No. 90 area 1 Bigha 4 Biswa, situate in Village Hasanpur Bhowapur, Pargana Loni, Tehsil and District Ghaziabad, from the notifications under Sections 4 and 6 of the Land Acquisition Act issued on 16.8.1988 and 14.10.1988 (Annexure Nos. 1 and 2 respectively to this writ petition), as they had lapsed in respect of plot No. 89 area 1 Bigha 6 Biswa and plot No. 90 area 1 Bigha 4 Biswa situate in village Hasanpur Bhowapur, Pargana Loni, Tehsil and

District Ghaziabad.

4. In the second Writ Petition No. 1856 of 2014, the petitioners have prayed for following relief:

a. To issue a suitable writ, order or direction in the nature of certiorari quashing the impugned award dated 3.12.2013 passed by the respondent No. 3 (Annexure No. 14 to the writ petition) and may further be pleased to issue a writ of mandamus directing the respondents that they may exclude plot No. 232 area 13 Biswa, plot No. 233 area 1 Bigha 13 Biswa and plot No. 377/2 area 1 Bigha 13 Biswa, situate in Village Hasanpur Bhowapur, Pargana Loni, Tehsil and District Ghaziabad, from the notifications under Sections 4 and 6 of the Land Acquisition Act issued on 7.7.1984 and 9.7.1984 (Annexure Nos. 1 and 2 respectively to this writ petition), as they had lapsed in respect of plot No. 232 area 13 Biswa, plot No. 233 area 1 Bigha 13 Biswa and plot No. 377/2 area 1 Bigha 13 Biswa, situate in village Hasanpur Bhowapur, Pargana Loni, Tehsil and District Ghaziabad.

b. Issue a suitable writ, order or direction in the nature of mandamus directing the respondents not to interfere with the ownership and possession of the petitioners over plot No. 232 area 13 Biswa, plot No. 233 area 1 Bigha 13 Biswa and plot No. 377/2 area 1 Bigha 13 Biswa, situate in village Hasanpur Bhowapur, Pargana Loni, Tehsil and District Ghaziabad.

c. Issue any other suitable writ, order or direction, which this Hon'ble Court may deem just and proper in the facts and circumstances of the case and in the interest of justice.

d. Award cost of petition to petitioners.

Subsequently, vide order dated 16.1.2014 their amendment application was allowed and following relief has also been substituted:

a. To issue a suitable writ, order or direction in the nature of certiorari quashing the impugned award dated 3.12.2013 passed by the respondent No. 3 (Annexure No. 14 to the writ petition) and may further be pleased to issue a writ of mandamus directing the respondents that they may exclude plot No. 232 area 13 Biswa, plot No. 233 area 1 Bigha 13 Biswa and plot No. 377/2 area 1 Bigha 13 Biswa, situate in Village Hasanpur Bhowapur, Pargana Loni, Tehsil and District Ghaziabad, from the notifications under Sections 4 and 6 of the Land Acquisition Act issued on 7.7.1984 and 9.7.1984 (Annexure Nos. 1 and 2 respectively to this writ petition), as they had lapsed in respect of plot No. 232 area 13 Biswa, plot No. 233 area 1 Bigha 13 Biswa and plot No. 377/2 area 1 Bigha 13 Biswa, situate in village Hasanpur Bhowapur, Pargana Loni, Tehsil and District Ghaziabad.

5. The brief facts of the writ petition No. 1506 of 2014 are as follows:

The gazette notification under Sections 4(1) alongwith 17(1) & 17(4) of the Land Acquisition Act herein after referred as "Act" was gazetted on 16.8.1988 for public purposes specially for the establishment of Vaishali Housing Scheme, Part-

II under planned development scheme of Ghaziabad Development Authority for total area of 30.2327 acres of land. The publications as required under the Act were made in two newspapers on 31.8.1988 and 1.9.1988 and the local publication was made on 4.10.1988. Finally, publication u/s 6 alongwith 17(1) had been gazetted on 14.10.1988 and the same had been published in two newspapers on 5.11.1988 and 14.11.1988. The petitioners, namely, Sri Moti Lal Goyal and Sri Rakesh Kumar Goyal both are son of Sri Lajja Ram, resident of 99, Navyug Market, Pargana Loni, Tehsil and District Ghaziabad had purchased the khasara No. 89M area 1 Bigha 3 Biswa and khasara No. 90M area 1 Bigha 2 Biswa at Village Hasanpur Bhowapur, Pargana Loni, Tehsil Dadri at District Ghaziabad through sale-deed dated 14.10.1988. The possession had been taken over by the Competent Authority on 2.1.1989 and award was made on 17.12.1990 and further on 3.12.2013.

6. The brief facts of the writ petition No. 1856 of 2014 are as follows:

The gazette notification u/s 4(1) read with Section 17(1) & 17(4) under the Act was notified on 7.7.1984 and gazette notification u/s 6 alongwith 17(1) have been gazetted on 11.7.1984 for public purpose specially for the establishment of Kaushambi scheme under planned development scheme of Ghaziabad Development Authority. The petitioners have purchased the property on 29.8.1988. In the present matter, the possession had been taken by the Competent Authority on 6.8.1988 and the award had also been made on 27.7.1991 and further on 3.12.2013.

7. Sri S.K. Varma, Senior Advocate for the petitioners has submitted that in the present set of circumstances, the award dated 3.12.2013 with regard to Khasara Nos. 89 and 90 cannot be issued as per the provisions of Sections 11A & 13A of the Act and further submitted that in the instant matter, the present award dated 3.12.2013 may be treated as second award and can only be passed u/s 13A of the Act which deals the correction of clerical errors and as per the provisions of Section 13A, the Collector may, at any time but not later than six months from the date of the award, by order, correct any clerical or arithmetical mistakes in the award or errors arising therein either on his own motion or on the application of any person interested or a local authority. He has further submitted that no correction which is likely to affect prejudicially any person, shall be made unless such person has been given a reasonable opportunity of making a representation in the matter. He has also relied upon the judgment Orissa Industrial Infrastructure Development Corporation Vs. Supai Munda and Others, .

8. Sri S.K. Varma, Senior Advocate has further contended that while making a fresh award dated 3.12.2013 no opportunity had been afforded to the petitioners. He has further made submission that the decree in Civil Suit No. 188 of 1989 had been obtained on 26.7.1990 and the same was only upset by the Hon"ble High Court on 16.12.2010, meanwhile he continued in possession and as such he is entitled for the benefit of adverse possession. He had also submitted that meanwhile, the said land had also been declared as Abadi u/s 143 of U.P.

Z.A. & L.R. Act on 7.8.1995 by the Competent Authority. Therefore, the whole action initiated by the respondents are contrary to the law and not tenable.

9. On the other hand, Sri Mahendra Pratap, learned counsel for the Ghaziabad Development Authority has submitted that in the present matter, Section 4(1) had been notified alongwith Section 17(1) & 17(4), the inquiry u/s 5A of the Act had been dispensed with and admittedly the petitioners are subsequent purchaser and just to make hindrance and sabotage in "Planned Development" at Vaishali, Ghaziabad, they had obtained permanent injunction and created mess inside the scheme and the Hon"ble High Court rightly upset the decree dated 27.7.1990 in First Appeal No. 1147 of 1990. He has also drawn our attention to different provisions of U.P. Urban Planning and Development Act, 1973, specially Section 14 & 15 which provide for any development prior permission is required and without sanction plan nobody may raise any construction. The judgment in First Appeal No. 1147 of 1990 dated 16.12.2010 has attained finality and the same has not been challenged by the petitioner before the Hon"ble Apex Court. He has further stated that in fact the petitioners have not made any averment regarding insufficient or less compensation in the award dated 3.12.2013 but in fact tried to challenge the whole acquisition proceedings which has already been attained finality. At such belated stage, the claim set out by the petitioners are not tenable in the eyes of law.

10. Sri Bal Krishna, Additional Chief Standing Counsel has also stated on behalf of the State that initially the acquisition proceeding had commenced strictly in consonance with the land acquisition proceeding and only after subjective satisfaction, the urgency was invoked for the planned development and the Civil Court without any right had unnecessarily entertained the suit against the settled proposition of law and had passed decree in favour of the petitioners, which had greatly hampered integrated planned development. He has also indicated that petitioners have also filed certain photographs which clearly demonstrate to this Hon"ble High Court that in the garb of said decree some temporary constructions had been raised without any sanction map on behest of the petitioners and the same has ruined the planned and systematic development of the area and the SLAO has rightly passed an award dated 3.12.2013 in continuation of the previous award dated 17.12.1990. The present award may not be treated as second or supplementary award but in fact the present disputed areas had been left over only on account of decree passed over the disputed plots. He has also submitted that if the petitioners are aggrieved with the award dated 3.12.2013, they have got the remedy to file reference u/s 18 of the Act.

11. We have heard the rival submissions made by learned counsel for the parties and perused the record. There cannot be quarrel with respect to the settled legal proposition that a purchaser subsequent to the issuance of Section 4 notification in respect of the land cannot challenge the acquisition proceeding and can only claim compensation as the sale transaction in such a situation is void. Any such encumbrances created by the owner or any transfer of land in question that is

made after the issuance of such notification would deem to be void and would not be binding on the Government.

12. In the instant case, admittedly, the petitioners have purchased the disputed properties subsequent to the issuance of notification u/s 4. The Hon''ble Court has already settled these controversies in the case of U.P. Jal Nigam, Lucknow through its Chairman and another Vs. M/s. Kalra Properties (P) Ltd. Lucknow and others, ; Star Wire (India) Ltd. Vs. State of Haryana and Others, ; Meera Sahni Vs. Lt. Governor of Delhi and Others, and Shanti Sports Club and Another Vs. Union of India (UOI) and Others, .

13. The Hon''ble Apex Court recently in the case of The Rajasthan State Industrial Development and Investment Corporation Vs. Subhash Sindhi Cooperative Housing Society Jaipur and Others, , has observed in Paragraph No. 7 as follows:

7. 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 Vs. Gopala and Others, ; Yadu Nandan Garg Vs. State of Rajasthan and Others, ; Jaipur Development Authority Vs. Mahavir Housing Coop. Society, Jaipur and Others, ; Secretary, Jaipur Development Authority, Jaipur Vs. Daulat Mal Jain and Others, ; Meera Sahni Vs. Lt. Governor of Delhi and Others, ; Har Narain (Dead) by LRs. Vs. Mam Chand (Dead) by LRs. and Others, ; and V. Chandrasekaran and Another Vs. The Administrative Officer and Others,).

14. The Hon''ble Apex Court has held in V. Chandrasekaran and Another Vs. The Administrative Officer and Others, , the relevant paras is quoted below:

Whether subsequent purchaser can challenge the acquisition proceedings:

6. The issue of maintainability of the writ petitions by the person who purchases the land subsequent to a notification being issued u/s 4 of the Act has been considered by this Court time and again.

In Pt. Lila Ram Vs. The Union of India and Others, , this Court held that, any one who deals with the land subsequent to a Section 4 notification being issued, does so, at his own peril. In Smt. Sneh Prabha etc. Vs. State of U.P. and Another, , this Court held that a Section 4 in 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 any one to encumber the land acquired thereunder." The alienation thereafter 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 (UOI) Vs. Shivkumar Bhargava and Others, .

7. Similarly, in U.P. Jal Nigam, Lucknow through its Chairman and another Vs. M/s. Kalra Properties (P) Ltd. Lucknow and others, , this Court held that, purchase of land after publication of a Section 4 notification in relation to such land, is void against the State and at the most, the purchaser may be a person-interested in compensation, since he steps into the shoes of the erstwhile owner and may therefore, merely claim compensation. (See also: Star Wire (India) Ltd. Vs. State of Haryana and Others,).

9. In view of the above, the law on the issue can be summarized 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.

15. It is further highly important to mention that the petitioner have purchased the litigation by buying the property after the notification u/s 4(1) of the Act.

16. The petitioners had filed Original Suit No. 188 of 1989 for permanent injunction restraining the defendants from interfering with the suit land. The petitioners as plaintiff in the said suit had pleaded that the land in question was not acquired and no compensation was paid to the plaintiff and the same was not required for any scheme of Ghaziabad Development Authority. The defendants/ Ghaziabad Development Authority had filed the written statement alleging that the petitioners (plaintiff) in the said suit were not the owner of the land and had no right to make any construction and they had no cause of action and once the land has already been notified u/s 4(1) of the Act then it was impermissible under the law to alienate the said property by the original owner. The G.D.A., has also taken specific stand that the land in question falls within Vaishali Scheme for which construction was under progress. Thousands of applicants have already applied and G.D.A. had already invested crores of rupees for the development. It has also been specifically stated in the written statement that the possession of the disputed land had also been taken on 2.1.1989. The G.D.A., has also taken specific stand that the plaintiffs are a subsequent purchaser of the land and have no right over the property except for compensation.

17. It is further relevant to mention for the disputed property of the second writ petition, the petitioners had filed Original Suit No. 871 of 1988 for plot No. 232 area 13 biswa and further Original Suit No. 423 of 1990 for plot No. 377/2 were filed for permanent injunction restraining the GDA not to interfere in the peaceful possession. The suits were decreed on 3.5.1989 and 7.5.1991 respectively. The said property had been purchased by the petitioners on 29.8.1988 much after gazette notification of Section 4 i.e. 7.7.1984.

18. Aggrieved with the said decrees, the GDA had filed two appeals, namely, First

Appeal No. 573 of 1989 arising out of Original Suit No. 871 of 1988 for Khasara No. 233 area 12 biswansi 10 katchwansis. The said first appeal had been allowed by the Hon"ble High Court on 16.12.2010 and the other First Appeal No. 491 of 1991 (GDA v. Rakesh Kumar) filed against the decree arising out of Original Suit No. 473 of 1990 of Khasara No. 377/2 consisting of 1 bigha 13 biswa at village Hasanpur Bhowapur, Pargana Loni, Tehsil and District Ghaziabad has been allowed on 16.12.2010.

19. The facts are similar in both the writ petitions. The three original suits already referred above had been filed by the petitioners and aggrieved by decree in said original suits, the G.D.A., had filed three first appeals before High Court. Instead of referring details of all the civil suits and first appeals, it is sufficient to refer the details of Civil Suit No. 188 of 1989 and First Appeal No. 1147 of 1990.

20. The Trial Court in Civil Suit No. 188 of 1989 has framed eight issues and DW-1 namely Om Dutt Tiwari proved that in pursuance to the notification, the possession have been taken and subsequently, the same had been handed over to the G.D.A. He further stated that there were only kachcha construction (jhuggi) on the land in dispute and there were no pucca construction on the land. The Trial Court held that since the plaintiffs (petitioners) have been proved to be owner and in possession and proceeding of land acquisition had not been concluded and they were entitled to permanent injunction and decreed the suit on 26.7.1990. In the said acquisition, the award was made on 17.12.1990. While making the award, an objection had been filed by Sri Moti Lal Goyal regarding Khasara Nos. 89 and 90 and claimed to be owner and further stated that he had already filed Civil Suit No. 188 of 1989 and the same was decreed in his favour on 26.7.1990. The said objection was mentioned as objection No. 20 in the award. The relevant portion of the award is being quoted below:

21. Aggrieved with the judgment and decree dated 26.7.1990, the Ghaziabad Development Authority had filed the first appeal before this Hon"ble Court which was numbered as First Appeal No. 1147 of 1990. The reasons best known to the Ghaziabad Development Authority, all of sudden they moved a withdrawal application on 23.9.1993. In the said first appeal, the Hon"ble High Court on the basis of withdrawal application dismissed the first appeal vide order dated 29.9.1993. We refrain ourselves to comment under what circumstances first appeals had been withdrawn by the GDA. Subsequently, recall application had been filed by the Ghaziabad Development Authority placing correct facts in the matter. The First Appeal had been restored by the Hon"ble High Court on 1.10.2004. Finally, the Hon"ble High Court while considering each and every aspect of the matter with clear cut finding made observation "The Civil Court has no jurisdiction to entertain and decree the suit. The first appeal is allowed". The judgment and decree dated 26.7.1990 in Original Suit No. 188 of 1989 (Moti Lal Goyal and another v. Ghaziabad Development Authority) passed by Sri R.A. Singh, Civil Judge, Ghaziabad is set aside. The Ghaziabad Development Authority has contested the First Appeal No. 1147 of 1990 with specific stand, the same is

averred in the judgment and the relevant paragraph No. 13 of the said judgment are as follows:

13. Shri A.K. Misra, learned counsel for the petitioner submits that it was not disputed that Khasra Plots were included in the notification acquiring the land and once the notification under Sections 4 and 6 of the Land Acquisition Act, 1894 were proved as it has been accepted by the trial Court, the Civil Court did not have jurisdiction to try the suit. In view of the scheme of the Act, which is complete code in itself, the suit stood impliedly barred u/s 9 of the CPC. He relies upon *Laxmi Chand and others Vs. Gram Panchayat, Kararia and others*, , in which it was held in para 2 and 3 as follows:

2. The contention raised by the learned counsel for the petitioner is that the acquisition proceedings having been dropped by the Land Acquisition Officer, he had no jurisdiction or power to reopen the same and to make the award u/s 11 of the Act. The award is, therefore, clearly illegal for want of jurisdiction. It would appear that after the High Court had upheld the validity of the notification u/s 4(1) and the declaration under Sections 6, an application was filed in the High Court for claiming value of the property in which the High Court determined market value at Rs. 7,000/- per acre and also other values of the trees and buildings etc. and the application was dismissed. The order dated January 23, 1970 was upheld by this Court by dismissing the special leave petition. While the enquiry was in progress, it would appear that the Gram Panchayat had stated before the Land Acquisition officer that it had no funds so as to proceed with the award and requested him to drop the proceedings. On that basis, report was submitted to the Government and had stopped further action. The Government did not accede to the request. No notification under sub-section (1) of Section 48 of the Act withdrawing acquisition of land, possession of which had not been taken, was published in the; Gazette. Admittedly, the Government thereby had neither withdrawn from the acquisition nor published the same in the Gazette. Therefore, the mere fact that the Land Acquisition Officer had stopped further action to make the award did not divest him of his power and jurisdiction to make the award. It is seen that Section 9 of the Civil Procedure Code, 1908 gives jurisdiction to the Civil Court to try all civil suits, unless barred. The cognizance of a suit of civil nature may either expressly or impliedly be barred. The procedure contemplated under the Act is a special procedure envisaged to effectuate public purpose, compulsorily acquiring the land for use of public purpose. The notification under Sec. 4 and declaration under Sec. 6 of the Act are required to be published in the manner contemplated thereunder. The inference gives conclusiveness to the public purpose and the extent of the land mentioned therein. The award should be made u/s 11 as envisaged thereunder. The dissatisfied claimant is provided with the remedy of reference u/s 18 and a further appeal u/s 54 of the Act. If the Government intends to withdraw from the acquisition before taking possession the land, procedure contemplated u/s 48 requires to be adhered to. If possession is taken it stands vested u/s 16 in the State with absolute title free from all encumbrances and the Government has no

power to withdraw from acquisition.

3. It would thus be clear that the scheme of the Act is complete in itself and thereby the jurisdiction of the Civil Court to take cognizance of the cases arising under the Act, by necessary implication, stood barred. The Civil Court thereby is devoid of jurisdiction to give declaration on the invalidity of the procedure contemplated under the Act. The only right an aggrieved person has is to approach the constitutional Courts, viz., the High Court and the Supreme Court under their plenary power under Articles 226 and 136 respectively with self-imposed restrictions on their exercise of extraordinary power. Barring thereof, there is no power to the Civil Court.

22. Bare perusal of the aforementioned judgment in the first appeal would amply demonstrate that the petitioners were admittedly the subsequent purchaser of the disputed plots and once the notification u/s 4 of the Act had been issued then the Civil Court did not have any jurisdiction to try the suit. The Land Acquisition Act, itself is a complete Code and in this regard, the Court has relied upon *Laxmi Chand and others Vs. Gram Panchayat, Kararia and others*, . While deciding the first appeal, the Court has also relied upon *State of Bihar Vs. Dharendra Kumar and others*, and *S.P. Subramanya Shetty and others Vs. Karnataka State of Road Transport Corporation and others*, , in which it was held that civil suit relating to acquisition proceeding is not maintainable and by implication, cognizance of such suit u/s 9 CPC is barred. The Court while deciding the first appeal of Ghaziabad Development Authority had also considered most important aspect of the matter that the person who has purchased the property subsequent to the notification under Sections 4 and 6 of the Act has no right to challenge notification and consequences thereof. He is only entitled to claim and receive compensation.

23. In the present matter, it is admitted situation that the petitioners have purchased the disputed plots through sale-deed dated 14.10.1988 and the Section 4 of the Act has been gazetted on 16.8.1988 and the possession had also been taken by the Competent Authority on 2.1.1989 and decree in Suit No. 188 of 1989 had been passed on 26.7.1990. It was the main reason for exemption of disputed plots from the award dated 17.12.1990. Once correctly or wrongly, a decree was obtained by the petitioners on 26.7.1990, the SLAO at that point of time could not ignore the said decree and the same could only be upset by the Higher Court. Even though possession was taken over in the matter on 2.1.1989, just to honour the decree of a Civil Court. While making the award, it was simply averred:

24. Such observation cannot be presumed to be an order by the Competent Authority under the Act for exempting the land in question from the acquisition. It is well-settled law that the land can only be exempted u/s 48 of the Act on the condition that the possession of the land has not been taken. In the present matter, in pursuance to the aforementioned notification, possession had been taken on 2.1.1989, then the vesting is absolutely free from all encumbrances and that cannot be divested. The subsequent purchaser cannot challenge the

acquisition proceeding and further once the land has already been notified u/s 4(1) of the Act, the Civil Courts cannot pass any injunction order in the acquisition proceeding. The conduct of the petitioners from the very beginning would eventually prove that they were conscious that the land has already been notified and eventually they would only be entitled for the compensation but anyhow to derail the acquisition proceedings, they filed frivolous suits and succeeded in getting a decree. The High Court while deciding the First Appeal No. 1147 of 1990 had exhaustively considered each and every point in the matter and had eventually set aside the decree holding that the Civil Court has no jurisdiction to entertain and pass the decree in the suit. The Hon'ble High Court while considering the first appeal of the Ghaziabad Development Authority had considered each and every relevant aspect of the matter and rightly rejected the claim of the plaintiffs/petitioners.

25. The submission of Sri Varma regarding technicality and lapsing of proceedings u/s 11 of the Act would not be attracted in the matter under the settled legal proposition that a purchaser, subsequent to the issuance of Section 4 notification in respect of the land, cannot challenge the acquisition proceedings and can only claim compensation as permissible under the Act and further petitioners have a remedy to file a reference u/s 18 of the Act.

26. In view of the above discussion, both the writ petitions being devoid of merit, are liable to be dismissed. Both the writ petitions are accordingly dismissed.