

(2013) 02 KAR CK 0022

In the Karnataka High Court

Case No : Writ Petition No. 27637 of 2012 (LA-BDA)

Smt. Rathnamma

APPELLANT

Vs

The State of Karnataka, Bangalore Development Authority,
The Special Additional Land Acquisition Officer and The
Assistant Executive Engineer

RESPONDENT

Date of Decision : 27-02-2013

Acts Referred:

Land Acquisition Act, 1894 — Section 4, 4(1), 6

Citation : (2013) 4 AKR 582 : (2013) 4 KarLJ 653

Hon'ble Judges : Ram Mohan Reddy, J

Bench : Single Bench

**Advocate : Keshava Murthy H.B, for the Appellant; M. Karunakaran, for R2-4,
for the Respondent**

Final Decision : Dismissed

Judgement

Ram Mohan Reddy, J.—Even according to the learned Counsel for the petitioner the property in question was purchased by her under a sale deed dt. 16/10/2003, while the preliminary and final notifications of acquisition of said land are dt. 8/4/2003 and 9/9/2003 respectively. In the light of paragraph 28 of the judgment of the Full Bench in Poornaprajna House Building Co-operative Society, Bangalore Vs. Bailamma @ Dodda Bailamma and Others, which is extracted below, petition deserves to be rejected:

28. Writ appeals 2090-94/93 arising out of writ petition Nos. 480 to 484/93 have been filed by the purchasers of the lands after the issuance of notification u/s 4(1) of the Act. Now it is a well settled proposition of law that a person who purchases the land subsequent to the issuance of the notification u/s 4(1) of the Act, cannot be said to be the owner. Such a purchaser has no right to challenge the acquisition itself, although he is entitled to claim compensation by virtue of sale made in his favour i.e., of right, title and interest of his predecessor. Reference may be made the judgment of the Supreme Court in Union of India

(UOI) Vs. Shivkumar Bhargava and Others, It was held that:

The policy of the Government indicates that the person whose land was acquired means the owner as on the date, notification was notified for acquisition, and he alone will be entitled to allotment of alternative site. A person who purchases land subsequent to the Notification may be entitled to claim compensation by virtue of sale made in his favour namely the right title and interest the predecessor had but, he cannot be said to be the owner for allotment since the right of ownership would be determined with reference to the date on which Notification u/s 4(1) was published. This was the view of this Court in another case while considering the Full Bench Judgment of the Delhi High Court. Under these circumstances, the appeal is allowed. The respondent cannot be considered to be the owner as on the date of Notification u/s 4(1) published in the Gazette. The direction given by the learned Single Judge is accordingly quashed. The Writ petition Petition stands dismissed.

No costs.

Reference can also be made to the subsequent Judgments of the Supreme Court in Smt. Sneh Prabha etc. Vs. State of U.P. and Another, U.P. Jal Nigam, Lucknow through its Chairman and another Vs. M/s. Kalra Properties (P) Ltd. Lucknow and others, and Ajay Krishan Shinghal, etc. etc. Vs. Union of India and Others, In the aforesaid judgments as well the Supreme Court has reiterated its view taken in Shivkumar Bhargava's case supra and has held that the purchaser subsequent to the issuance of the notifications u/s 4 and 6 has no right to challenge the acquisition proceedings. W.A. Nos. 2079/93 and 2080-81/93 are accepted on the additional ground and the Writ Petition filed by (now respondents) were not maintainable on their behalf challenging the acquisition proceedings although they would be entitled to claim compensation in place of the original owners.

Petition is accordingly rejected.