

(2016) 01 KAR CK 0025

In the Karnataka High Court

Case No : Writ Appeal No. 200601/2014 (LA-RES)

Venkatesh and Others

APPELLANT

Vs

The State of Karnataka and Others

RESPONDENT

Date of Decision : 04-01-2016

Acts Referred:

Land Acquisition Act, 1894 — Section 16(2), Section 4

Citation : (2016) 01 KAR CK 0025

Hon'ble Judges : Ram Mohan Reddy and Aravind Kumar, JJ.

Bench : Division Bench

Advocate : R.S. Sidhapurkar, Advocate, for the Appellant; A. Syed Habeeb, AGA, for the Respondent

Final Decision : Dismissed

Judgement

Ram Mohan Reddy, J.—1. The unsuccessful petitioners in W.P. No. 80891/2012 have presented this intra court appeal calling in question the order dated 14.02.2013 of the learned Single Judge.

2. Writ petition was filed to quash the notification under Section 16(2) of the Land Acquisition Act, 1893 dated 31.07.2003 and the award dated 27.11.1964 of the Assistant Commissioner and Land Acquisition Officer, Gulbarga Sub-Division and to declare the acquisition proceedings in respect of the lands of the petitioners as shown in the schedule thereto in the award dated 22.11.1964 are deemed to have been withdrawn from acquisition.

3. The learned Single Judge having regard to the material averments more particularly that the land bearing Sy. Nos. 38 and 39, in all measuring 5 acres 18 guntas at Daddapur village along with other lands measuring in all 188 acres 27 guntas were notified for construction of medical college, and a preliminary notification issued on 26.06.1959 followed by an award dated 24.11.1964 and a notification under Section 16(2) of the Land Acquisition Act, 1894 published on 31.07.2003 for having taken possession of the lands on 18.08.1964, noticed that

the writ petitions were filed many years after the said notifications on the allegation that petitioners had purchased the properties under two registered sale deeds dated 19.09.1996 and 20.07.1996, following which mutation entries were made in the revenue records.

4. Regard being had to undisputed facts that appellants were subsequent purchasers, having no manner of right, title or interest in the immovable properties, since acquired and possession taken, dismissed the petition.

5. The question as to whether subsequent purchasers can challenge the acquisition proceedings came up for consideration before the Apex Court in *V. Chandrasekaran vs. Administrative Officer*, (2012) 12 SCC 133 whence it was observed thus:

"Whether subsequent purchaser can challenge the acquisition proceedings.

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* 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 *Sneh Prabha v. State of U.P.*, 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 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 v. Shivkumar Bhargava*.

16. Similarly, in *U.P. Jal Nigam v. Kalra Properties (P) Ltd.*, 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.

17. In *Ajay Krishan Shinghal v. Union of India*, *Mahavir v. Rural Institute*, *Gian Chand v. Gopala* and *Meera Sahni v. Lt. Governor of Delhi* 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.

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."

6. In the light of the authoritative pronouncement of the Apex Court noticed *supra*, the appeal devoid of merit is dismissed.