

M.P. HOUSING BOARD & ANR.

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v.

SATISH KUMAR BATRA AND ORS

(Civil Appeal No. 1116 of 2022)

FEBRUARY 10, 2022

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[M. R. SHAH AND B. V. NAGARATHNA, JJ.]

Land Acquisition Act, 1894 – Respondent Nos. I to 3 purchased land in question from the predecessor-in-title – With respect to the land in question, s.4 Notification had been issued – The predecessor-in-title had submitted their objections u/s.5A which were pending – They also challenged s.4 and s.6 notifications by filing writ petition before the High Court – Single Judge dismissed writ petition – LPA is pending in High Court – Thereafter, respondent nos. I to 3 filed instant writ petition – Single Judge dismissed writ petition on the ground of limitation – Division Bench by impugned order allowed the appeal and held that respondent nos. I to 3 were entitled to same relief which was granted to their predecessor-in-title – On appeal, held: High Court did not at all note and/or consider that with respect to the very acquisition and the notifications u/ss.4 and 6, writ appeal filed by predecessor-in-title of respondent Nos. I to 3 was pending before High Court – Without noticing the same, the High Court allowed the appeal and set aside the order passed by the Single Judge – Once the very acquisition and the notifications u/ss.4 and 6 were the subject matter of other proceedings pending before the High Court, in order to avoid any further conflicting orders, High Court, instead of deciding the appeal separately ought to have ensured that all the appeals with respect to the same acquisition, where the notifications were challenged, are heard together – That was not done in the instant case – Therefore, matter remitted to the Division Bench of the High Court to decide the writ appeal of respondent nos. I to 3 and also writ appeal filed by their predecessor-in-title.

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Allowing the appeal and remitting the matter to Division Bench of High Court, the Court

HELD: 1. The High Court has not at all noted and/or considered that with respect to the very acquisition and the

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- A notifications under Sections 4 and 6 dated 12.07.1994 and 26.05.1995 respectively, Writ Appeal No. 447 of 2009 filed by the predecessor-in-title of the respondent Nos. 1 to 3 i.e., Gajanand Mali is pending before the High Court. Without noticing the same, the High Court has allowed the appeal and set aside the order passed by the Single Judge. [Para 3][548-E-F]
- B 2. Once the very acquisition and the notifications under Sections 4 and 6 were the subject matter of other proceedings pending before the High Court, in order to avoid any further conflicting orders and even otherwise on the basis of proprietary the High Court, instead of deciding the present appeal separately ought to have ensured that all the appeals with respect to the same acquisition, where the notifications were challenged, are heard together. That has not been done in the instant case. [Para 4][548-G-H]
- C 3. Hence on the aforesaid short ground alone, the impugned judgment and order passed by the Division Bench of the High Court is to be set aside and the matter is to be remanded to the Division Bench of the High Court to decide the present appeal being Writ Appeal No. 392 of 2009 alongwith Writ Appeal No. 447 of 2009 preferred by the Gajanand Mali and others.
- E [Para 5][549-A-B]

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 1116 of 2022.

From the Judgment and Order dated 18.09.2020 of the High Court of Madhya Pradesh, Bench at Indore in Writ Appeal No.392 of 2009.

- F R. C. Mishra, Sr. Adv., Ilin Saraswat, Ananya Mishra, Mahendra Kumar, Rajnish Kumar Jha, Advs. for the Appellants.
- G V. V. V. M. B. Pattabhiram, DAG, Kapil Sibal, Sr. Adv., Puneet Jain, Mrs. Christi Jain, Harsh Jain, Umang Mehta, Ms. Shruti Singh, Ms. Pratibha Jain, Arjun Garg, Aakash Nandolia, Ms. Sagun Srivastava, M/s GSL Chambers, Divyanshu Sahay, Gaurav Goel, Pashupati Nath Razdan, Ms. Maitreyee Jagat Joshi, Prakhar Srivastav, Ms. Sneh Bairwa, Advs. for the Respondents.

The Judgment of the Court was delivered by

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M. R. SHAH, J.

1. Feeling aggrieved and dissatisfied with the impugned judgment and order dated 18.09.2020 passed by the High Court of Madhya Pradesh, Bench at Indore in Writ Appeal No. 392 of 2009 by which the Division Bench of the High Court has allowed the said appeal preferred by the respondent Nos. 1 to 3 herein and has set aside the judgment and order passed by the learned Single Judge dated 09.09.2009 passed in Writ Petition No. 2624 of 2008 and has held that the respondent Nos. 1 to 3 herein shall be entitled for the same relief, which has been extended to the similarly placed persons – Gajanand Mali, who was the petitioner in the Writ Petition No. 651 of 1995, the M.P. Housing Board and Anr. have preferred the present appeal.

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2. The facts leading to the present appeal in nutshell are as under:

2.1 That respondent Nos. 1 to 3 herein purchased the land in question from one Gajanand Mali and Nandkishore, the predecessor-in-title. With respect to the land in question a notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as “Act of 1894”) was issued on 12.07.1994. Thereafter objections under Section 5-A of the Act of 1894 were invited. Gajanand Mali and Nandkishore and other landowners submitted their objections. The Land Acquisition Officer rejected the objections. The original landowner – Gajanand Mali aggrieved by the order passed by the Land Acquisition Officer rejecting his objection preferred the Writ Petition No. 651 of 1995. The said writ petition was dismissed by the learned Single Judge by an order dated 16.04.2001.

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2.2 The Letters Patent Appeal No. 228 of 2001 preferred by the Gajanand Mali came to be allowed by the Division Bench setting aside the order passed by the learned Single Judge as well as the order dated 18.04.1995 passed by the Land Acquisition Officer rejecting the objection of Gajanand Mali and remanded the matter back to the Land Acquisition Officer for deciding the objections afresh.

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2.3 It appears that thereafter the said Gajanand Mali and other predecessor-in-title of the respondent Nos. 1 to 3 preferred one another Writ Petition No. 830 of 1997 challenging the notification under Section 4 of the Act of 1894 dated 12.07.1994 and the notification under Section 6 dated 26.05.1995. The said writ petition came to be dismissed by the learned Single Judge vide order dated 19.07.2004. Letters Patent Appeal

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- A No.329 of 2004 preferred by the Gajanand Mali against the order passed by the learned Single Judge passed in Writ Petition No. 830 of 1997 came to be dismissed by the Division Bench as not maintainable. The matter was carried to this Court. The said Gajanand Mali withdrew the appeals before this Court with liberty to prefer the Letters Patent Appeal as in the meantime in view of the change in law, the Letters Patent Appeal were held to be maintainable.

B The said Gajanand Mali thereafter had preferred Writ Appeal No.447 of 2009 against the order passed by the learned Single Judge dated 19.07.2004 in Writ Petition No.830 of 1997, which is reported to be pending.

- C 2.4 That thereafter in the year 2008, the respondent Nos. 1 to 3 herein preferred the present Writ Petition No.2624 of 2008 before the learned Single Judge. Vide order dated 09.09.2009, the learned Single Judge dismissed the said writ petition primarily on the ground of delay and latches. Respondent Nos. 1 to 3 herein preferred the present Letters Patent Appeal before the Division Bench and by the impugned judgment and order, the Division Bench of the High Court has allowed the said appeal and has quashed and set aside the order passed by the learned Single Judge and held that the respondent Nos. 1 to 3 are also entitled to the same relief, which was granted in favour of Gajanand Mali, the writ petitioner in Writ Petition No.651 of 1995.

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- F 3. However, the High Court has not at all noted and/or considered that with respect to the very acquisition and the notifications under Sections 4 and 6 dated 12.07.1994 and 26.05.1995 respectively, Writ Appeal No.447 of 2009 filed by the predecessor-in-title of the respondent Nos. 1 to 3 i.e., Gajanand Mali is pending before the High Court. Without noticing the same, the High Court has allowed the appeal and set aside the order passed by the learned Single Judge.

- G 4. We are of the opinion that once the very acquisition and the notifications under Sections 4 and 6 were the subject matter of other proceedings pending before the High Court, in order to avoid any further conflicting orders and even otherwise on the basis of proprietary the High Court, instead of deciding the present appeal separately ought to have ensured that all the appeals with respect to the same acquisition, where the notifications were challenged, are heard together. That has not been done in the instant case.
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5. Hence on the aforesaid short ground alone, the impugned judgment and order passed by the Division Bench of the High Court is to be set aside and the matter is to be remanded to the Division Bench of the High Court to decide the present appeal being Writ Appeal No.392 of 2009 alongwith Writ Appeal No.447 of 2009 preferred by the Gajanand Mali and others.

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6. In view of the above and for the reasons stated above and on the aforesaid short ground alone and without further entering into the merits of the case and without expressing anything on merits in favour of either parties, the impugned judgment and order passed by the Division Bench of the High Court dated 18.09.2020 passed in Writ Appeal No.392 of 2009 is hereby quashed and set aside. The matter is remanded to the Division Bench of the High Court to decide Writ Appeal No. 392 of 2009 alongwith Writ Appeal No.447 of 2009 in accordance with law and on their own merits without in any way being influenced by any of the observations made in the impugned judgment and order one way or the other, which as such is otherwise quashed and set aside by this Court by the present order only for the purpose of remanding this matter to be heard along with Writ Appeal No.447 of 2009. The Division Bench to finally decide and dispose of the appeals being Writ Appeal No.447 of 2009 and Writ Appeal No.392 of 2009 at the earliest and preferably within a period of six months from the date of receipt of the present order.

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All concerned are directed to cooperate the Division Bench of the High Court for early disposal of the aforesaid appeals within the time stipulated hereinabove.

Present appeal is accordingly allowed to the aforesaid extent. However, in the facts and circumstances of the case, there shall be no order as to costs.

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Pending applications, if any, also stand disposed of.