

THE STATE OF HARYANA & ORS.

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v.

SUSHILA & ORS.

(Civil Appeal No. 9205 of 2022)

JANUARY 13, 2023

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[M. R. SHAH AND S. RAVINDRA BHAT, JJ.]

Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013: s. 24(2) – Land acquisition, when deemed to have lapsed – Writ petition by the respondent no.1-original writ petitioners, being subsequent purchasers seeking declaration that acquisition proceedings pertaining to subject land is deemed to have lapsed in view of s.24(2) since neither physical possession of the land was taken nor they were paid compensation – Allowed by the High Court – Sustainability of – Held: Not sustainable – Possession was taken over by the acquiring body and handed over to the beneficiary, any possession by the petitioners thereafter can be said to be encroachment and the encroachers cannot be permitted to take the benefit of the provisions of s. 24(2) – It would be giving a premium to the illegality and the encroachers which cannot be the intention of the legislature – Subsequent purchasers have no locus to challenge the acquisition and/or lapsing of acquisition – Thus, the writ petition by the respondents being subsequent purchasers ought not to have been entertained by the High Court – Order passed by the High Court is quashed and set aside – Land Acquisition Act, 1894.

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Delhi Administration Thr. Secretary, Land and Building Department & Ors. Vs. Pawan Kumar & Ors., Civil Appeal No. 3646 of 2022; Delhi Development Authority Vs. Godfrey Philips (I) Ltd. & Ors., Civil Appeal No. 3073 of 2022 - referred to.

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CIVIL APPELLATE JURISDICTION : Civil Appeal No. 9205 of 2022.

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A From the Judgment and Order dated 05.12.2017 of the High Court of Punjab and Haryana at Chandigarh in CWP No.15720 of 2014.

B. K. Satiza, AAG, Ms. S. Harini, Dr. Monika Gusain, Avi Dhankhar, Advs. for the Appellants.

B The Judgment of the Court was delivered by

M. R. SHAH, J.

1. Feeling aggrieved and dissatisfied with the impugned judgment and order dated 05.12.2017 passed by the High Court of Punjab and Haryana at Chandigarh in CWP No.15720 of 2014 by which the High Court has allowed the said writ petition and has declared that the acquisition with respect to the land in question is deemed to have lapsed under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as ‘the Act 2013’), the State of Haryana has preferred the present appeal.

2. At the outset, it is required to be noted that before the High Court it was the case on behalf of the private respondents herein - original writ petitioners that the compensation with respect to the land in question has not been paid to them and even the possession of the lands in question is with them and therefore, in view of Section 24(2) of the Act, 2013 the acquisition with respect to the land in question is deemed to have lapsed as neither the possession has been taken over nor the compensation for the acquired land has been paid.

2.1 Before the High Court a written statement was filed by the Land Acquisition Officer. It was specifically disputed that the possession of the acquired land was not taken over. It was also the specific case on behalf of the appellants herein that as such the original writ petitioners being the subsequent purchasers after the notification under Section 4 dated 26.08.2003 there was no question of any compensation to be paid to them. It was submitted that the petitioners being subsequent purchasers had no locus to challenge the acquisition proceedings more particularly to pray for lapse of the acquisition proceedings. The relevant part of the written statement read as under:

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“1. That the petitioners have no locus standi to file the present petition before this Hon’ble court because the petitioners were not owners of the acquired land at the time of the notification under section – 4 dated 26.08.2003 and under section – 6 dated 10.08.2004. The gram Panchayat of village Nathupur was owner of the land bearing khasra no. 155 (1-7-0), 156/1(0-3-8), 156/3(1-18-17). The petitioners were tenants in the land in dispute as per the revenue record. The petitioners become owners of the land in dispute vide order dated 24.05.2006 passed by the Hon’ble High court in Regular Second Appeal no. 1578 of 1990 and Civil Misc no. 3568-C of 2006. Immediately thereafter the petitioners no’s 1,4,5,6,7,8,9,10,11 and 18 sold their land in dispute to the other person i.e. Dharmpal son of Paras Ram vide sale deed no’s. 8637 dated 4.7.2006 and mutation no. 2218 dated 09.08.2006 was also sanctioned in favour of vendee. The sale of the land by the petitioners was well before the announcement of the Award no. 8 dated 04.08.2006. So the petitioners are not entitled to file the present petition against the acquisition proceeding after disbursement of compensation and the present petition is liable to be dismissed with the cost on this ground.

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3. That the total compensation amount of the awarded land is Rs.76,32,858/-. The compensation of the acquired land was not paid to the petitioners because the petitioners no. 1,4,5,6,7,8,9,10,11 and 18 were not owners of the acquired land on the date of passing the Award and other land owners did not give their consent to receive the compensation amount of the acquired land and did not provide any documentary proof to prove their ownership and as such un-disbursed amount, is lying deposited in the account of the LAC, and is available for payment immediately on demand of actual land owners on the date of passing the Award.

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10. That the contents of Para no. 10 of the writ petition are admitted to the extent that the award of the land in dispute was announced on 04.08.2006. It is specifically denied that the petitioners are in

A physical possession of the acquired land. It is submitted that possession of the acquired land has been handed over to the representative of HUDA on the same day of the award vide Rapat no. 702 date 04.08.2006. The petitioners are encroachers in the acquired land. Rest of the contents of this Para is matter of record.

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C 14. That the contents of Para no. 14 of the writ petition are wrong and denied. It is specifically denied that the acquisition proceeding qua the petitioners has lapsed as per the provision of section 24 (2) of Right to fair compensation and transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013. It is submitted that the physical possession of the acquired land has been handed over to the representative of HUDA on the same day of the award vide Rapat no. 702 dated 04.08.2006. The petitioners are encroachers in the acquired land and compensation of the acquired land was not paid to the petitioners because they are not owners of the acquired land and were not entitled to the same. Rest of the contents of this Para is matter of record.

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F 17. That the contents of Para no. 17 of the writ petition are wrong and denied. It is submitted that the acquisition proceeding qua the petitioners cannot be lapsed as per the provision of section 24 (2) of Right to fair compensation and transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013, because the physical possession of the acquired land has been handed over to the representative of HUDA on the same day of the award vide Rapat no. 702 dated 04.08.2006. The petitioners are encroachers in the acquired land and compensation of the acquired land was not paid to the petitioners because they are not owners of the acquired land. The acquisition proceedings have been carried out as per the demarcation given by Distt, Town Planner, Gurgaon, in accordance with the mandatory provisions of the L.A. Act. The acquisition is just as per law in the interest of public at large and

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not Liable to be quashed on any of the grounds mentioned by the petitioners in this Para of the writ petition. That no law points is involved in the writ petition which requires adjudication by this Hon'ble High Court. The contentions raised in sub Para (i) to (iv) are wrong and hence denied. The acquisition proceeding were carried out in accordance with Law.”

3. From the aforesaid it can be seen that it was the specific case on behalf of the appellants that the possession of the land in question was taken over and handed over to the beneficiary on 04.08.2006. It was also the case on behalf of the appellant that the petitioners are encroachers in the acquired land and compensation of the acquired land was not paid to them because they were not co-owners at the time of award. The aforesaid has not at all been considered by the High Court while passing the impugned judgment and order. As the possession was taken over by the acquiring body and was handed over to the beneficiary, any possession by the petitioners thereafter can be said to be encroachment and the encroachers cannot be permitted to take the benefit of the provisions of Section 24(2) of the Act, 2013 and pray that as now they are in possession, may be as encroachers, they are entitled to relief under Section 24(2) of the Act, 2013. It would be giving a premium to the illegality and the encroachers which cannot be the intention of the legislature.

4. Even otherwise as observed and held by this Court in the case of **Delhi Administration Through Secretary, Land and Building vs. Pawan Kumar & Ors., Civil Appeal No.3646 of 2022** and **Delhi Development Authority versus Godfrey Phillips (I) Ltd. & Ors, Civil Appeal No.3073 of 2022**, the subsequent purchasers have no locus to challenge the acquisition and/or lapsing of acquisition.

4.1 Applying the law laid down by this Court in the aforesaid two decisions, the writ petition at the instance of the private respondents herein – original writ petitioners being subsequent purchasers ought not to have been entertained by the High Court challenging the acquisition proceedings and/or praying for lapse of the acquisition under Section 24(2) of the Act, 2013. Under the circumstances also the impugned judgment and order passed by the High Court is unsustainable.

A 5. In view of the above and for the reason stated above the present appeal succeeds. The impugned judgment and order passed by the High Court passed in CWP No. 15720 of 2014 is hereby quashed and set aside. The original writ petition filed by the private respondents – original writ petitioners, stands dismissed accordingly.

B Present appeal is accordingly allowed. No costs.

Pending applications, if any, also stand disposed of.

Nidhi Jain
(Assisted by : Abhishek Agnihotri, LCRA)

Appeal allowed.