V.Chandrasekaran & Anr vs Administrative Officer & Ors on 18 September, 2012

Author: B. S. Chauhan

Bench: Jagdish Singh Khehar, B.S. Chauhan

REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOs. 6342-6343 OF 2012

V. Chandrasekaran & Anr.
…Appellants

Versus

The Administrative Officer & Ors.
…Respondents

J U D G M E N T

Dr. B. S. CHAUHAN, J.

1. These appeals have been preferred against the impugned judgment and order dated 24.1.2012, passed by the High Court of Judicature at Madras in Writ Appeal Nos. 805-806 of 2011, by which, the Division Bench reversed the judgment and order of the learned Single Judge, dated 1.11.2010 passed in relation to land acquisition proceedings.

2. Facts and circumstances giving rise to these appeals are as under:

A. A Notification under Section 4(1) of the Land Acquisition Act, 1894 (hereinafter referred to as `the Act'), was issued on 15.5.1978 with respect to land measuring 58.59 acres, in the revenue estate of Tambaram Village, Saidapet Taluk, Chengalpet District, Tamil Nadu, including the suit land measuring 2.26 acres in Survey Nos. 283/1 (extent of 27 cents), 284/1 (extent of 70 cents), 284/2 (extent of 65 cents) and 284/3 (extent of 64 cents). As the provisions of the Urgency Clause under Section 17 of the Act were not invoked, the persons interested were at liberty to file objections under Section 5-

A of the Act. A declaration under Section 6 of the Act with respect to the said land was issued on 6.6.1981. Very few among the persons interested, challenged the land acquisition proceedings by way of filing 8 writ petitions, including Writ Petition Nos. 8897 and 8899 of 1983 etc. which were filed by some of the original tenure-holders of the suit land on several grounds. However, the said petitioners did not challenge the acquisition proceedings so far as the suit land is concerned, rather they chose to restrict their cases to the other parts of their lands. The batch of said writ petitions was allowed by way of a common judgment and order, dated 16.12.1983, quashing the declaration issued under Section 6 of the Act on the ground that the inquiry was not conducted fairly, and that the objections raised by the said writ petitioners under Section 5-A, were also not dealt with properly. However, the learned Single Judge upheld the Notification issued under Section 4 of the Act and hence, granted liberty to the Government of Tamil Nadu to continue with the said acquisition proceedings, in accordance with law.

B. Being aggrieved by this, the writ petitioners including the predecessors-in-interest of the appellants, preferred Writ Appeal Nos. 214 to 225 and 435 of 1984, before the Division Bench of the High Court, against the judgment and order dated 16.12.1983, praying for quashing of the Notification issued under Section 4 of the Act, as well. The Government did not challenge the judgment and order dated 16.12.1983. The said writ appeals were allowed vide judgment and order dated 23.8.1985, and the said notification under Section 4(1) of the Act, only in respect of the land, which constituted the subject matter of the aforementioned appeals, was quashed. Against the judgment and order dated 23.8.1985, the Government of Tamil Nadu preferred a Special Leave Petition before this Court, which was dismissed vide order dated 6.5.1992. Thus, those orders attained finality.

C. In the meantime, an Award was passed with respect to the said land, including the suit land, on 28.6.1983, to the extent of 4.26 acres i.e. Survey Nos. 283/1, 284/1 and 284/3.

D. A second batch of writ petitions was filed before the High Court challenging the acquisition proceedings, as well as the Award. All the said writ petitions were allowed, following the earlier judgments dated 16.12.1983 and 23.8.1985 vide judgment and order dated 22.12.1986.

E. A second award was made on 14.8.1986, in relation to the remaining part of said land, including a part of the suit land, i.e. Survey No. 284/2.

F. So far as the suit land is concerned, the persons- interested/tenure-holders never filed any objection under Section 5-A of the Act, and nor have they challenged the acquisition proceedings, at any stage. Instead, they accepted the compensation amount under protest. Possession of the suit land was taken over by the authority subsequently. There is nothing on record to show whether the claimants had filed any application for making a reference under Section 18 of the Act.

G. The tenure-holders/persons-interested in the suit land, after receiving compensation, and handing over the possession to the respondents authorities with respect to the suit land, transferred the said land to some persons, and ultimately, after undergoing multiple sales, the suit land was purchased by the appellants herein, vide sale- deeds dated 4.3.2004, 10.11.2004, 7.7.2005 and 11.8.2005. As a result thereof, they claim to have acquired possession of the said suit land. The appellants planned to construct flats upon the said land, for the purpose of which, they had also obtained permission from the Chennai Metropolitan Development Authority on 16.3.2007. Applications were filed by the original tenure-holders for re-conveyance of the suit land which stood as rejected vide order dated 7.7.2008.

H. Being aggrieved, the appellants filed Writ Petition No. 6108 of 2009 for the quashing of the Notification dated 15.5.1978, issued under Section 4 of the Act, pertaining to the land that comprised 9 Survey Numbers, including the suit land contending that the declaration under Section 6 had been quashed in toto and no fresh declaration was subsequently issued. The proceedings therefore, automatically lapsed as there could be no Award without a fresh declaration, and therefore, all subsequent proceedings would be void ab-initio. Another Writ Petition No. 20896 of 2009, was also filed seeking totally inconsistent/contrary reliefs i.e. praying for the quashing of the letter dated 7.7.2005, as also for the issuance of directions to re-convey the suit land in favour of the appellants.

I. A learned Single Judge, vide judgment and order dated 1.11.2010 allowed both Writ Petitions, observing that as the Section 6 declaration had been quashed in toto and no fresh declaration was issued thereafter, the land acquisition proceedings had lapsed and the suit land was hence, free from any and all acquisition proceedings.

J. Being aggrieved, the Tamil Nadu Housing Board (hereinafter referred to as `the Board') – the respondents, then filed writ appeals which have been allowed vide impugned judgment and order dated 24.1.2012, reversing the judgment and order of the learned Single Judge.

Hence, these appeals.

3. Dr. Abhishek M. Singhvi and Mr. Rajiv Dutta, learned senior counsel appearing for the appellants, have submitted that, since the Section 6 declaration dated 6.6.1981 has been quashed in toto and no fresh declaration was made thereafter, subsequent proceedings are void ab-initio. The appellants, before purchasing the suit land made various inquiries and were informed in writing by various authorities, that the said land was not the subject matter of any acquisition proceedings at the relevant time. More so, a high powered committee, constituted by the Board itself, submitted a report that the suit land was not required by the Board, and that even though the possession of the

land had been taken, the land vested in the State. There was no approach road to the suit land and thus, the said land could not be utilised for the purpose for which, it was acquired. The Board was not in a position to utilise the suit land and, thus, it could be released in favour of the appellants, subject to refunding the compensation amount received by the land owners. More so, the compensation amount received by the persons aggrieved in 1983 was received under protest, and was refunded to them in 2010, by way of demand draft, though the same was not accepted by the Board and was therefore, returned to the tenure-holders. The appellants are still willing to refund the amount of compensation received by the persons- interested, in pursuance of the illegal and void awards, dated 28.6.1983 and 14.8.1986. Therefore, the impugned judgment and order are liable to be set aside and the present appeals should be allowed.

4. On the contrary, Shri S. Gomathi Nayagam, learned Additional Advocate General appearing for the respondents, has vehemently opposed the appeals, contending that the predecessor-in-interest, of the appellants did not raise any objection under Section 5-A of the Act, with respect to such acquisition proceedings at any stage, rather they accepted the compensation granted under protest. To receive an award under protest is a legal requirement for the purpose of making a reference under Section 18 of the Act. The quashing of the declaration under Section 6 of the Act would not automatically apply to the suit land, as it was not the subject matter of challenge with respect to the acquisition proceedings before court. The appellants did not make any inquiry whatsoever, with respect to the title of the suit land, though inquiry was sought to be made in relation to the said land, by different persons in altogether different contexts. The report of the high powered committee appointed by the Board itself, is self-contradictory, as they clearly provided that possession had been taken and, in view of the fact that once possession is taken, the said land vests in the State, free from all encumbrances under Section 16 of the Act, the same cannot be divested. Therefore, the question of re-conveying the suit land in favour of the appellants cannot possibly arise. Land can be released from acquisition proceedings either under Section 48 of the Act, or in exercise of powers under the General Clauses Act, 1897, but this can be done only prior to the vesting of the land in the State, which in itself is prior to taking possession thereof. The appellants, being purchasers of the said suit land, after more than 20 years of the Award, cannot challenge the acquisition proceedings at such a belated stage. More so, the vendors were not competent to make any transfer, as none of them had good title over the suit land. Therefore, any and all sale transactions are illegal and void. The sale-deeds executed in favour of the appellants, do not confer upon them, any title. More so, the subsequent purchasers cannot challenge the validity of the land acquisition. The appeals lack merit and are therefore liable to be dismissed.

5. We have considered the rival submissions made by the learned counsel for the parties and perused the records.

However, before coming to the merit of the case, it is desirable to consider the legal issues involved herein.

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 under Section 4 of the Act has been considered by this Court time and again.

In Pandit Leela Ram v. Union of India, AIR 1975 SC 2112, 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 Uttar Pradesh, AIR 1996 SC 540, 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. Shri Shiv Kumar Bhargava & Ors., JT (1995) 6 SC 274.

7. Similarly, in U.P. Jal Nigam v. M/s. Kalra Properties Pvt. Ltd., AIR 1996 SC 1170, 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. v. State of Haryana & Ors., (1996) 11 SCC

698).

8. In Ajay Kishan Singhal v. Union of India, AIR 1996 SC 2677; Mahavir & Anr. v. Rural Institute, Amravati & Anr., (1995) 5 SCC 335; Gian Chand v. Gopala & Ors., (1995) 2 SCC 528; and Meera Sahni v. Lieutenant Governor of Delhi & Ors., (2008) 9 SCC 177, 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. (See also: Tika Ram v. State of U.P., (2009) 10 SCC 689).

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.

The acquisition challenged by one – whether others can also take the benefit of the same.

10. The relief obtained by some persons, by approaching the Court immediately after the cause of action has arisen, cannot be the basis for other persons who have belatedly filed their petition, to take the benefit of earlier relief provided, for the reason that, such persons cannot be permitted to take impetus of an order passed by the court, at the behest of another more diligent person. (Vide: Ratan Chandra Sammanta & Ors. v. Union of India & Ors., AIR 1993 SC 2276; State of Karnataka &

Ors. v. S.M. Kotrayya & Ors., (1996) 6 SCC 267; and Jagdih Lal & Ors. v. State of Haryana & Ors., AIR 1997 SC 2366).

11. In Abhey Ram (dead) by L.Rs. & Ors. v. Union of India & Ors., AIR 1997 SC 2564, a three Judge Bench of this Court, dealt with an issue similar to the one involved herein. The question that arose was whether the quashing of the notification/declaration under the Act by the court in respect of other matters, would confer benefit upon non- parties also. The Court held as under:

> "The question then arises is whether the quashing of the declaration by the Division Bench in respect of the other matters would enure the benefit to the appellants also. Though, prima facie, the argument of the learned counsel is attractive, on deeper consideration, it is difficult to give acceptance to the contention..... If it were a case entirely relating to Section 6 declaration as has been quashed by the High Court, necessarily that would enure the benefit to others also, though they did not file any petition, except to those whose lands were taken possession of and were vested in the State under Sections 16 and 17(2) of the Act free from all encumbrances." (Emphasis added)

12. In H.M.T. House Building Co-operative Society v. Syed Khader & Ors., AIR 1995 SC 2244, this Court quashed the land acquisition proceedings in toto, wherein the land had been acquired by the Government for the use of the cooperative society which had planned a housing scheme upon it, in view of the conclusion that it could not be called a "public purpose", within the meaning of the Act. The Court further directed the respondents therein to restore the possession of the land to the tenure-holders/persons-interested, and such persons were thereafter, directed to refund the amount received by them as compensation. (See also: H.M.T. House Building Cooperative Society v. M. Venkataswamappa & Ors., (1995) 3 SCC 128)

13. The said judgment has subsequently been approved and followed by this Court, in Delhi Admn. v. Gurdip Singh Uban & Ors., AIR 1999 SC 3822, wherein this Court held as follows:

> "Quashing the notification in the cases of individual writ petitions cannot be treated as quashing the whole of it. That was what was held in Abhey Ram case (supra). The main points raised before us are fully covered by the judgment of the three-Judge Bench in Abhey Ram's case."

14. In Om Prakash v. Union of India & Ors., AIR 2010 SC 2430, this Court considered a similar issue and reiterated the view taken by this Court in Abhey Ram (supra), wherein it was held that, in case a person interested has not filed any objection to the notice issued under Section 5-A of the Act, or challenged the acquisition proceedings, he cannot claim that the order of quashing the declaration in some other matter, would also cover his case. The Court held as under:

> "The facts of the aforesaid cases would show that in the case in hand as many as four declarations under Section 6 of the Act were issued from time to time. Finally when declaration is quashed by any Court, it would only enure to the benefit of those who

> had approached the Court. It would certainly not extend the benefit to those who had not approached the Court or who might have gone into slumber."

15. Therefore, the law on the issue can be summarised to state that, in the event that the person interested has not filed objections in response to a notice issued under Section 5-A, and has not challenged the acquisition proceedings, the quashing of the declaration issued under Section 6 in some other case, would not enure any benefit to such person. More so, where the possession of land has already been taken, and such land stands vested in the State, free from all encumbrances as provided under Sections 16 and 17(2) of the Act, prior to the date of decision of the Court quashing the declaration in toto, no benefit can be taken by him. Where a party has not filed objections to the notice issued under Section 5-A, the declaration qua such persons is generally neither quashed, nor does it stand vitiated qua him, by any error of law warranting interference. There is also another view with respect to this matter, which is that, in case the said land has been acquired for a Scheme, which does not fall within the ambit of "public purpose" then, in such a case, it would not be a case of acquisition under the Act, instead, it would amount to colourable exercise of power.

Land once vested in the Government – whether can be divested:

16. It is a settled legal proposition, that once the land is vested in the State, free from all encumbrances, it cannot be divested and proceedings under the Act would not lapse, even if an award is not made within the statutorily stipulated period. (Vide: Avadh Behari Yadav v. State of Bihar &. Ors., (1995) 6 SCC 31; U.P. Jal Nigam v. Kalra Properties (P) Ltd. (Supra); Allahabad Development Authority v. Nasiruzzaman & Ors., (1996) 6 SCC 424, M. Ramalinga Thevar v. State of Tamil Nadu & Ors., (2000) 4 SCC 322; and Government of Andhra Pradesh v. Syed Akbar & Ors., AIR 2005 SC 492).

17. The said land, once acquired, cannot be restored to the tenure holders/persons-interested, even if it is not used for the purpose for which it was so acquired, or for any other purpose either. The proceedings cannot be withdrawn/abandoned under the provisions of Section 48 of the Act, or under Section 21 of the General Clauses Act, once the possession of the land has been taken and the land vests in the State, free from all encumbrances. (Vide: State of Madhya Pradesh v. V.P. Sharma, AIR 1966 SC 1593; Lt. Governor of Himachal Pradesh & Anr. v. Shri Avinash Sharma, AIR 1970 SC 1576; Satendra Prasad Jain v. State of U.P. & Ors., AIR 1993 SC 2517; Rajasthan Housing Board & Ors. v. Shri Kishan & Ors., (1993) 2 SCC 84 and Dedicated Freight Corridor Corporation of India v. Subodh Singh & Ors., (2011) 11 SCC 100).

18. The meaning of the word 'vesting', has been considered by this Court time and again. In Fruit and Vegetable Merchants Union v. The Delhi Improvement Trust, AIR 1957 SC 344, this Court held that the meaning of word 'vesting' varies as per the context of the Statute, under which the property vests. So far as the vesting under Sections 16 and 17 of the Act is concerned, the Court held as under.-

> "In the cases contemplated by Sections 16 and 17, the property acquired becomes the property of Government without any condition or ; limitations either as to title or

possession. The legislature has made it clear that vesting of the property is not for any limited purpose or limited duration."

19. In Gulam Mustafa & Ors. v. State of Maharashtra & Ors., AIR 1977 SC 448, in a similar situation, this Court held as under:-

"Once the original acquisition is valid and title has vested in the Municipality, how it uses the excess land is no concern of the original owner and cannot be the basis for invalidating the acquisition. There is no principle of law by which a valid compulsory acquisition stands voided because long later the requiring Authority diverts it to a public purpose other than the one stated in the ....declaration."

20. Similarly, in State of Kerala & Anr. v. M. Bhaskaran Pillai & Anr., (1997) 5 SCC 432, this Court held as under:

"It is settled law that if the land is acquired for a public purpose, after the public purpose was achieved, the rest of the land could be used for any other public purpose. In case there is no other public purpose for which the land is needed, then instead of disposal by way of sale to the erstwhile owner, the land should be put to public auction and the amount fetched in the public auction can be better utilised for the public purpose envisaged in the Directive Principles of the Constitution.

(See also: C. Padma & Ors. v. Deputy Secretary to the Government of Tamil Nadu & Ors., (1997) 2 SCC 627; Bhagat Singh v. State of U.P. & Ors., AIR 1999 SC 436; Niladri Narayan Chandradhurja v. State of West Bengal, AIR 2002 SC 2532; Northern Indian Glass Industries v. Jaswant Singh & Ors., (2003) 1 SCC 335; and Leelawanti & Ors. v. State of Haryana & Ors., (2012) 1 SCC 66).

21. In Government of Andhra Pradesh & Anr. v. Syed Akbar (Supra), this Court considered this very issue and held that, once the land has vested in the State, it can neither be divested, by virtue of Section 48 of the Act, nor can it be reconveyed to the persons- interested/tenure holders, and that therefore, the question of restitution of possession to the tenure holder, does not arise. (See also: Pratap v. State of Rajasthan, AIR 1996 SC 1296; Chandragaudaj Ramgonda Patil v. State of Maharashtra, (1996) 6 SCC 405; State of Kerala & Ors. v. M. Bhaskaran Pillai & Anr., AIR 1997 SC 2703; Printers (Mysore) . Ltd. v. M.A. Rasheed & Ors. (2004) 4 SCC 460; Bangalore Development Authority v. R. Hanumaiah, (2005) 12 SCC 508; and Delhi Airtech Services (P) Ltd. & Anr. v. State of U.P. & Anr. (2011) 9 SCC 354).

22. In view of the above, the law can be crystallized to mean, that once the land is acquired and it vests in the State, free from all encumbrances, it is not the concern of the land owner, whether the land is being used for the purpose for which it was acquired or for any other purpose. He becomes persona non-grata once the land vests in the State. He has a right to only receive compensation for the same, unless the acquisition proceeding is itself challenged. The State neither has the requisite

power to reconvey the land to the person- interested, nor can such person claim any right of restitution on any ground, whatsoever, unless there is some statutory amendment to this effect.

23. The general rule of law is undoubted, that no one can transfer a better title than he himself possesses; Nemo dat quod non habet. However, this Rule has certain exceptions and one of them is, that the transfer must be in good faith for value, and there must be no misrepresentation or fraud, which would render the transactions as void and also that the property is purchased after taking reasonable care to ascertain that the transferee has the requisite power to transfer the said land, and finally that, the parties have acted in good faith, as is required under Section 41 of the Transfer of Property Act, 1882. (Vide: Asa Ram & Anr. v. Mst. Ram Kali & Anr., AIR 1958 SC 183; State Bank of India v. Rajendra Kumar Singh & Ors., AIR 1969 SC 401, Controller of Estate Duty, Lucknow v. Aloke Mitra, AIR 1981 SC 102; Hanumant Kumar Talesara v. Mohal Lal, AIR 1988 SC 299; and State of Punjab v. Surjit Kaur (Dead) through LRs., JT (2001) 10 SC 42).

24. This Court has earlier taken the view that, in case the award is not accepted under protest, the persons interested cannot make an application to make a reference under Section 18, (Vide: Wardington Lyngdoh & Ors. v. Collector, Mawkyrwat, (1995) 4 SCC 428), wherein this Court held that, a person who has received the amount of award made under Section 11 of the Act, without protest, will not be entitled to make an application under Section 18 of the Act. Therefore, receipt of the said amount under protest, is a condition precedent for making an application under Section 18, within the limitation prescribed under the Act.

25. The aforesaid view however, has not been consistently reiterated, as is evident from the judgment in Ajit Singh & Anr. v. State of Punjab & Ors., (1994) 4 SCC 67, wherein it was held that, merely an application under Section 18 of the Act would make it clear that the person-interested has not accepted the award made by the authority.

26. The instant case requires to be examined in the light of the aforesaid legal propositions.

From the facts it is evident that, the predecessor-in-interest of the appellants approached the court by filing Writ Petitions as well as writ appeals, with respect to some of their lands, but for the reasons best known to them, they did not challenge the acquisition proceedings so far as the suit land is concerned. The appellants filed a writ petition for quashing the land acquisition proceedings and/or seeking a declaration to the effect that the notification issued under Section 4 of the Act on 15.5.1978, in relation to Survey Nos. 282/1, 282/2, 283/1, 283/2, 284/1, 284/2, 284/3, 284/4 situated in Tambaram Village, Chennai, had lapsed and become inoperative and consequently, to issue a mandamus, barring the respondents, their men, their agents, subordinates, servants or anyone acting under them, from interfering in any manner, with the peaceful enjoyment of the properties belonging to the appellants, as stipulated in the aforementioned surveys.

27. The appellants also filed another writ petition for quashing the orders passed in relation to the applications of their predecessors-in- interest with respect to re-conveyance of the said land. The reliefs claimed therein inter-alia, are as under:

> "Issue a writ of Certiorarified Mandamus or any other order or direction in the nature of a writ of Certiorarified Mandamus by calling for the records comprised in the proceedings of the 4th respondent bearing Letter No. 2899/LAI(1)/2007-6 dated 7.7.2008 and quash the same as illegal and unconstitutional and consequently issue a Writ of Mandamus directing the respondents to reconvey the property situate at Survey No. 283/1 measuring about 0.27 cents, Survey No. 284/1 measuring about 0.70 cents, Survey No.284/2 measuring about 0.65 cents and Survey No.284/3 measuring about 0.64 cents in 166 of Tambaram Village, Old State Bank Colony, Saidapet Taluk, Chengalpat District as per the provisions contained in Sec.48-B of the Land Acquisition (Tamil Nadu Amendment) Act 1996 (Tamil Nadu Act of 16 of 1997) and pass such further or other orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case and thus render justice."

28. It is evident from the relief clauses of the two writ petitions filed by the appellants, that the reliefs sought by them are mutually inconsistent and contradictory. In the event that the appellants wanted a declaration to the effect that the acquisition proceedings in pursuance of issuance of the Section 4 notification, dated 15.5.1978 had lapsed or were void, the question of seeking re-conveyance of the said land could not arise. More so, it is difficult to understand, how the appellants can claim relief in respect of 9 survey numbers. In the present appeals, relief is restricted only to 4 of the survey numbers. Dr. A.M. Singhvi has not pressed for the relief of reconveyance. However, it is apparent that the appellants' claim cannot co-exist and can be said to be blowing hot and blowing cold, simultaneously.

29. In Cauvery Coffee Traders, Mangalore v. Hornor Resources (International) Company Limited, (2011) 10 SCC 420, this Court considered a large number of judgments on the issue of estoppels and held as under:

> "A party cannot be permitted to "blow hot and cold", "fast and loose" or "approbate and reprobate". Where one knowingly accepts the benefits of a contract or conveyance or an order, is estopped to deny the validity or binding effect on him of such contract or conveyance or order. This rule is applied to do equity, however, it must not be applied in a manner as to violate the principles of right and good conscience.....
>
> .....The doctrine of estoppel by election is one of the species of estoppels in pais (or equitable estoppel), which is a rule in equity. By that law, a person may be precluded by his actions or conduct or silence when it is his duty to speak, from asserting a right which he otherwise would have had."

30. In the instant case, the tenure holders/person-interested neither filed objections under Section 5-A of the Act, nor have they challenged the land acquisition proceedings, so far as the suit land is concerned, instead they chose to withdraw the compensation awarded in 1983 and 1986; after the expiry of about three decades and hence, they cannot be permitted to challenge the acquisition proceedings on any ground whatsoever. The appellants cannot claim title/relief better than what the

original vendors were entitled to.

31. In fact, the appellants have claimed reliefs in the writ petitions with respect to not just the suit land but also in relation to the land which was the subject matter of an earlier litigation by their predecessors-in-interest. We fail to understand for what purpose the relief of quashing the acquisition proceedings has been sought when, in respect of the said land, the proceedings already stood quashed.

32. The High Court dealt with the proceeding, issued in RC No. 8222/95/F5, which is purported to have been issued by one K.Muthu, Special Tahsildar (Land Acquisition), and observed that the said proceeding itself stood cancelled and somehow a xerox copy of the said proceeding was obtained by the appellants and they utilised the same to secure permission for sanctioning their plan of construction of flats on the said land. Thus, the appellant have played fraud upon the authorities in order to obtain the said sanction. Even as per the RC No. 8222/95/F5, it is evident that the possession of the suit land was taken over ages ago and therefore, the said suit land was the subject matter of the earlier litigation.

33. The High Court also recorded findings to the effect that the appellants have "managed", not only to obtain certain orders from the department, but have also misused the process of the court to achieve a sinister design. The court further took note that one of the appellants had filed an additional affidavit before the High Court in a writ petition by way of which, had attempted to mislead the court through furnishing of false information.

It has even been admitted at the Bar, that the letter dated 7.7.2005 which was placed on the record by the appellants before the High Court, was in fact, a forged document.

34. The appellants have not approached the court with clean hands, and are therefore, not entitled for any relief. Whenever a person approaches a Court of Equity, in the exercise of its extraordinary jurisdiction, it is expected that he will approach the said court not only with clean hands but also with a clean mind, a clean heart and clean objectives. Thus, he who seeks equity must do equity. The legal maxim "Jure Naturae Aequum Est Neminem cum Alterius Detrimento Et Injuria Fieri Locupletiorem", means that it is a law of nature that one should not be enriched by causing loss or injury to another. (Vide: The Ramjas Foundation & Ors. v. Union of India & Ors., AIR 1993 SC 852; Nooruddin v. (Dr.) K.L. Anand, (1995) 1 SCC 242; and Ramniklal N. Bhutta & Anr. v. State of Maharashtra & Ors., AIR 1997 SC 1236).

35. The judicial process cannot become an instrument of oppression or abuse, or a means in the process of the court to subvert justice, for the reason that the court exercises its jurisdiction, only in furtherance of justice. The interests of justice and public interest coalesce, and therefore, they are very often one and the same. A petition or an affidavit containing a misleading and/or an inaccurate statement, only to achieve an ulterior purpose, amounts to an abuse of process of the court.

36. In Dalip Singh v. State of U.P. & Ors., (2010) 2 SCC 114, this Court noticed an altogether new creed of litigants, that is, dishonest litigants and went on to strongly deprecate their conduct by

observing that, the truth constitutes an integral part of the justice delivery system. The quest for personal gain has become so intense that those involved in litigation do not hesitate to seek shelter of falsehood, misrepresentation and suppression of facts in the course of court proceedings. A litigant who attempts to pollute the stream of justice, or who touches the pure fountain of justice with tainted hands, is not entitled to any relief, interim or final.

37. The truth should be the guiding star in the entire judicial process. "Every trial is a voyage of discovery in which truth is the quest". An action at law is not a game of chess, therefore, a litigant cannot prevaricate and take inconsistent positions. It is one of those fundamental principles of jurisprudence that litigants must observe total clarity and candour in their pleadings. (Vide: Ritesh Tewari & Anr. v. State of Uttar Pradesh & Ors., (2010) 10 SCC 677; and Amar Singh v. Union of India, (2011) 7 SCC 69).

38. In Maria Margarida Sequeria Fernandes & Ors. v. Erasmo Jack de Sequeria (dead), (2012) 5 SCC 370), this Court taking note of its earlier judgment in Ramrameshwari Devi v. Nirmala Devi, (2011) 8 SCC 249 held:

> "False claims and defences are really serious problems with real estate litigation, predominantly because of ever- escalating prices of the real estate. Litigation pertaining to valuable real estate properties is dragged on by unscrupulous litigants in the hope that the other party will tire out and ultimately would settle with them by paying a huge amount. This happens because of the enormous delay in adjudication of cases in our courts. If pragmatic approach is adopted, then this problem can be minimised to a large extent." The Court further observed that wrongdoers must be denied profit from their frivolous litigation, and that they should be prevented from introducing and relying upon, false pleadings and forged or fabricated documents in the records furnished by them to the court.
>
> 39. In view of the above, the appellants have disentitled themselves for any equitable relief.
>
> 40. Section 16-A has been added to the Act by the State Amendment Act, 1996, and the same imposes a complete restriction on the sale of acquired land by the tenure holder. In case the land is transferred in contravention of these provisions, the Government may, by way of an order, declare the transfer to be null and void, and on such declaration, the land shall, as penalty, be forfeited to, and vest in, the Revenue Department of the Government, free from all encumbrances.

In view of the above, we are of the considered opinion that the sale deeds in favour of the appellants are void and unenforceable.

41. In such a fact-situation, we fail to understand how the appellants came to possess the suit land which had been vested in the State ages ago, in the years 1983 and 1986. Such a course is not possible without the collusion of the officers of the State/Board.

42. After considering the entire material on record, we reach the following inescapable conclusions:-

> i) The suit land stood notified under Section 4 of the Act as on 15.5.1978. There is nothing on record to show, nor have the appellants made any pleadings to the effect that, the persons interested at the relevant time ever filed any objections whatsoever, in response to the notice issued under Section 5-A of the Act.

ii) Predecessors-in-interest of the appellants have filed two writ petitions challenging the validity of acquisition of some of their land but they did not raise the issue of validity of the acquisition in respect of the suit land.

iii) Award no.14/1983 was made on 28.6.1983, in respect of Survey Nos.283/1, 284/1 and 284/3. The amount of compensation, was withdrawn by the original tenure holders/persons-interested, though of course, under protest, and the same was limited to the extent of quantum of compensation, so that they could approach the Collector for making a reference to the Court under Section 18 of the Act.

iv) The judgment of the learned Single Judge is subsequent to the aforesaid award. As the compensation related to the land had been withdrawn, and the land stood vested in the State, free from all encumbrances, quashing the declaration under Section 6 in cases filed by others, would not enure any benefit to the original tenure holders/appellants, as has been explained by this Court in the case of Abhey Ram (supra), and furthermore, even if the declaration stood quashed in toto, it could not save the suit land, as its possession had already been taken over.

v) In the instant case, the High Court did not declare the acquisition proceedings to be void, or the purpose for which the land had been acquired not to be a "public purpose" within the meaning of the Act. There has also been no direction whatsoever, to restore the possession of the said land to the tenure holders, upon refund of the compensation amount by them.

vi) Another award no.11/1986 in respect of Survey No.284/2 was made on 14.8.1986. Compensation awarded in relation to the said piece of land was withdrawn. The land thus, vested in the State, free from all encumbrances.

vii) In the instant case, as the original vendors i.e. vendors of the first sale were not vested with any title over the said land, the transfer by them, was itself void and all subsequent transfers would also, as a result, remain ineffective and unenforceable in law. Therefore, sale deeds executed in the years 2004-05 would not confer any title on the appellants.

viii) The appellants claimed to have made some enquiries in relation to the acquisition proceedings qua the suit land, to which the competent authorities replied, that the land was free from acquisition proceedings and therefore, the appellants proceeded to purchase the said suit land. The letters written by the Authorities dated 4.3.2004, 7.7.2005 and 12.5.2006 do not make any reference to the present appellants, nor was any information sought by any of them in this regard. Some of the said letters had been addressed to the original tenure holders and other were merely found to be inter-

departmental communications.

ix) Letter dated 7.7.2005, filed by the appellants before the Court is admittedly a forged document.

x) So far as the matter relating to the proceedings issued in R.C. No.8222/95/F-5, it is clearly revealed that the appellants have used unfair means to obtain sanction for their plan of construction of flats.

xi) The appellants filed an affidavit before the High Court only to mislead the court by furnishing false information.

xii) The appellants also managed to obtain certain orders from the Department and further have abused the process of the court.

xiii) The appellants did neither approach the statutory authority nor the court with clean hands.

xiv) Compensation was paid to the original tenure holders in 1983 and 1986. The same was refunded by the present appellants in the name of the original tenure holders in 2010 i.e. after 27 years, and the same has not been accepted by the Board and has been duly returned to the appellants.

xv) The recommendations of the High Level Committee contained in Annexure-P.11 make it clear that the said Committee was constituted, only upon the request of the appellants to consider their grievances. The recommendations suggest that although possession of the suit land was taken, as the land was inaccessible, it remained unutilized for the purpose for which it was acquired. Therefore, reconveyance of the same was suggested.

xvi) An application for re-conveyance was filed by the original tenure holders and their legal heirs, and not by the appellants with respect to the said part of the suit land, as is evident from the orders dated 18.12.2007 and 7.7.2008. The said letters, in fact, were addressed to Tmt. K. Palaniammal, Tmt. Girija, Tmt. Nagammal, Thiru A.E. Kothandaraman Mudaliar, and Thiru M. Mahalingam in response to an application made by them.

xvii) It is evident from the record that there was no application for reconveyance of the land in Survey No.284/2, though the appellants have sought relief in relation to this land also.

xviii) The appellants filed applications for re-conveyance through the original tenure holders/legal heirs. This clearly reveals that the appellants themselves had been of the view that the suit land had already vested in the State, otherwise there could be no question of re-conveyance.

(xix) The land once vested in the State, free from all encumbrances cannot be divested.

xx) The appellants had attempted to be succeeded in illegally/unauthorisedly encroaching upon public land, by connivance with the officers of the State Govt./Board and raised a huge construction upon the said land, after getting the Plan sanctioned from the competent statutory authority.

xxi) The State/Board authorities never made an attempt to stop the construction. Nor the Board approached the court to restrain the appellants from encroaching upon its land and construction of the flats. Connivance of the officers of the Board in the scandal is writ large and does not require any proof.

Facts of the case reveal a very sorry state of affairs as how the public property can be looted with the connivance and collusion of the so called trustees of the public properties. It reflects on the very bad governance of the State authorities.

43. The aforesaid conclusions do not warrant any relief to the appellants. The appeals are dismissed with the costs of Rupees Twenty Five lacs, which the appellants are directed to deposit with the Supreme Court Legal Services Authority within a period of six weeks.

44. In addition thereto, the Chief Secretary of Tamil Nadu is requested to examine the issues involved in the case and find out as who were the officials of the State or Board responsible for this loot of the public properties and proceed against them in accordance with law. He is further directed to ensure eviction of the appellants from the public land forthwith.

.....J. (Dr. B.S. CHAUHAN) .....J. (JAGDISH SINGH KHEHAR) New Delhi, September 18, 2012