SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 1 Thursday, August 03, 2023
Printed For: Mr. Debajyoti Datta
SCC Online Web Edition: http://www.scconline.com
TruePrint™ source: Supreme Court Cases, © 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.

(2014) 15 Supreme Court Cases 394

(BEFORE DR B.S. CHAUHAN AND S.A. BOBDE, JJ.)

K.N. ASWATHNARAYANA SETTY (DEAD) THROUGH LEGAL REPRESENTATIVES AND OTHERS . . Petitioners;

Versus

STATE OF KARNATAKA AND OTHERS . . Respondents.

SLPs (C) No. 22311 of 2012† with Nos. 22307-309 of 2012, decided on December 2, 2013

A. **Property Law — Transfer of Property Act, 1882 — S. 52 — Doctrine of lis pendens — Applicability — Non-effect of absence of interim order by court — Held, transferee pendente lite is bound by decree passed by court — Merely because there is no interim order passed by court in pending litigation, person would not get right to purchase property during pendency of litigation and contend that he would not be bound by decree of court — In present case, petitioners had purchased suit land when matter relating to de-notification of land from acquisition under S. 48(1) of Land Acquisition Act, 1894 was pending before Supreme Court — Supreme Court subsequently quashed order of de-notification — Held, petitioners were bound by this final order of Supreme Court — Plea that as there was no interim order passed by Supreme Court, petitioners could purchase suit land during pendency of litigation and were not bound by order of Supreme Court, rejected — Land Acquisition Act, 1894 — Ss. 48(1), 4 and 6**

B. **Land Acquisition Act, 1894 — Ss. 4 and 6 — Sale of land after initiation of acquisition proceedings — Restrictions on such sale — Enactment of relevant statutes by various State Governments making such sale punishable except when done with permission, noted**

C. **Land Acquisition Act, 1894 — Ss. 48(1), 16, 17, 4 and 6 — De-notification under S. 48(1) — Non-permissibility of after possession of land is taken — Held, once possession of acquired land is taken, same vests in the State free from all encumbrances and thereafter it cannot be divested — Hence, de-notification under S. 48(1), cannot be made after this stage — On facts, where possession of acquired land was taken and handed over to respondent Society, beneficiary of the acquisition, held, question of de-notifying the land from acquisition could not arise**

The State Government issued a notification under Sections 4(1) and 6 of the Land Acquisition Act, 1894 on 6-8-1991 and 15-5-1992 respectively, to acquire huge chunk of land admeasuring 15 acres for the benefit of the respondent Society. However, at the behest of the then owners of the suit land, the Government vide order dated 5-8-1993 de-notified the land from acquisition issuing notification under Section 48(1) of the LA Act. Aggrieved, the respondent Society challenged the de-notification order by filing writ petition before the High Court. The Single Judge as well as the Division Bench in appeal rejected the said challenge. The Supreme Court vide judgment dated 11-12-2000 allowed the appeal of

† From the Judgment and Order dated 24-10-2011 of the High Court of Karnataka at Bangalore in WA No. 1421 of 2008

SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 2 Thursday, August 03, 2023
Printed For: Mr. Debajyoti Datta
SCC Online Web Edition: http://www.scconline.com
TruePrint™ source: Supreme Court Cases, © 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.

the respondent Society and quashed the order de-notifying the suit land from acquisition.

During the pendency of the appeal before the Supreme Court, the present petitioners purchased the suit land and approached the State Government to de-notify the said land from acquisition. As their applications for release were not dealt with by the Government, they preferred writ petitions before the High Court which directed the Government to decide these applications. In pursuance of the High Court's order, the Revenue Minister passed an order dated 27-2-2004, directing to de-notify the land from acquisition.

The order dated 27-2-2004 however, was not complied with as the Deputy Secretary to the State Government made an endorsement dated 21-9-2005 that the matter had attained finality after being decided by the Supreme Court vide judgment dated 11-12-2000 and possession of the land had already been taken and handed over to the respondent Society on 6-9-2002.

The present petitioners then filed writ petition before the High Court to quash the said endorsement dated 21-9-2005. The writ petition as well as the writ appeal both came to be dismissed. Hence, the present SLPs.

Dismissing the SLPs, the Supreme Court

Held :

At the time of purchase of the suit land by the present petitioners the matter was sub judice before the Supreme Court and if the order of denotification dated 5-8-1993 stood quashed, it would automatically revive the land acquisition proceedings meaning thereby the notification under Section 4 of the Land Acquisition Act, 1894 and declaration under Section 6 of the LA Act resurfaced by operation of law. In such a fact situation, it is not permissible for the present petitioners to argue that merely because there was no interim order in the appeal filed by the respondent Society, the petitioners had a right to purchase the land during the pendency of the litigation and would not be bound by the order of the Supreme Court quashing the denotification of acquisition proceedings. (Para 10)

The doctrine of lis pendens is based on legal maxim *ut lite pendente nihil innovetur* (during a litigation nothing new should be introduced). This doctrine stood embodied in Section 52 of the Transfer of Property Act, 1882. The principle of "lis pendens" is in accordance with the equity, good conscience or justice because they rest upon an equitable and just foundation that it will be impossible to bring an action or suit to a successful termination if alienations are permitted to prevail. A transferee pendente lite is bound by the decree just as much as he was a party to the suit. A litigating party is exempted from taking notice of a title acquired during the pendency of the litigation. However, it must be clear that mere pendency of a suit does not prevent one of the parties from dealing with the property constituting the subject-matter of the suit. The law simply postulates a condition that the alienation will, in no manner, affect the rights of the other party under any decree which may be passed in the suit unless the property was alienated with the permission of the court. The transferee cannot deprive the successful plaintiff of the fruits of the decree if he purchases the property pendente lite. (Para 11)

SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 3 Thursday, August 03, 2023
Printed For: Mr. Debajyoti Datta
SCC Online Web Edition: http://www.scconline.com
TruePrint™ source: Supreme Court Cases, © 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.

K. Adivi Naidu v. *E. Duruvasulu Naidu*, (1995) 6 SCC 150; *Venkatrao Anantdeo Joshi* v. *Malatibai*, (2003) 1 SCC 722; *Raj Kumar* v. *Sardari Lal*, (2004) 2 SCC 601; *Sanjay Verma* v. *Manik Roy*, (2006) 13 SCC 608; *Rajender Singh* v. *Santa Singh*, (1973) 2 SCC 705; *T.G. Ashok Kumar* v. *Govindammal*, (2010) 14 SCC 370 : (2012) 1 SCC (Civ) 489, *relied on*

In view of the above, it is not permissible to say that in case the petitioners had purchased the suit property during the pendency of the appeal filed by the respondent Society before the Supreme Court, the petitioners are not bound by the final orders of the Supreme Court. However, it is made clear that the petitioners shall be entitled to compensation as determined under the provisions of the LA Act. (Paras 13 and 20)

K.N. Aswathanarayana Setty v. *State of Karnataka*, Writ Appeal No. 1421 of 2008, decided on 24-10-2011 sub nom *Ruksana Parveen* v. *State of Karnataka*, Writ Appeal No. 1014 of 2008 (KAR); *K.N. Aswathanarayana Setty* v. *State of Karnataka*, WP No. 11502 of 2006, decided on 17-4-2008 (KAR), *affirmed*

M.V. Kasturi v. *State of Karnataka*, ILR 2008 KAR 3961 : (2009) 3 Kant LJ 340, *impliedly approved*

State Govt. Houseless Harijan Employees' Assn. v. *State of Karnataka*, (2001) 1 SCC 610, *explained*

K.N. Aswathnarayana Shetty v. *State of Karnataka*, WP No. 19968 of 2002, decided on 19-2-2003 (KAR), *referred to*

In order to meet the menace of sale of land after initiation of acquisition proceedings, various States enacted statutes and made such transfers punishable e.g. the Delhi Lands (Restrictions on Transfer) Act, 1972 made the sales permissible only after grant of permission for transfer by the authority prescribed therein. In absence of such permission if the sale is made in contravention of the statutory provisions it is a punishable offence. (Para 16)

There is ample evidence on record to show that possession of the suit land had been taken on 6-9-2002. In such a fact situation, question of denotifying the acquisition of land could not arise. Thus, the order dated 27-2-2004 could not be passed. There cannot be a dispute in law that upon possession being taken under Section 16 or 17 of the LA Act, the land vests in the State free from all encumbrances. Thus, in case possession of the land has been taken, application for release of land from acquisition is not maintainable. Once the land is vested in the State free from encumbrances, it cannot be divested. (Para 18)

Lt. Governor of H.P. v. *Avinash Sharma*, (1970) 2 SCC 149; *Satendra Prasad Jain* v. *State of U.P.*, (1993) 4 SCC 369; *Mandir Shree Sita Ramji* v. *Collector (LA)*, (2005) 6 SCC 745; *Sulochana Chandrakant Galande* v. *Pune Municipal Transport*, (2010) 8 SCC 467 : (2010) 3 SCC (Civ) 415, *relied on*

D. **Land Acquisition Act, 1894 — Ss. 9, 4 and 6 — Sale of land subsequent to notification under S. 4 — Rights of purchaser — Limited rights — Held, subsequent purchaser can only claim compensation as he steps into shoes of erstwhile owner but he cannot challenge validity of acquisition proceedings — Property Law — Transfer of Property Act, 1882 — S. 8 — Purported transfer of property after initiation of acquisition proceedings**

Held :

A person who purchases land subsequent to the issuance of a notification under Section 4 of the Land Acquisition Act, 1894 with respect to it, is not competent to challenge the validity of the acquisition proceedings on any ground whatsoever,

SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 4 Thursday, August 03, 2023
Printed For: Mr. Debajyoti Datta
SCC Online Web Edition: http://www.scconline.com
TruePrint™ source: Supreme Court Cases, © 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.

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. (Para 15)

V. Chandrasekaran v. *Administrative Officer*, (2012) 12 SCC 133 : (2013) 2 SCC (Civ) 136 : (2013) 4 SCC (Cri) 587 : (2013) 3 SCC (L&S) 416, *followed*

Lila Ram v. *Union of India*, (1975) 2 SCC 547; *Sneh Prabha* v. *State of U.P.*, (1996) 7 SCC 426; *Meera Sahni* v. *Lt. Governor of Delhi*, (2008) 9 SCC 177; *Tika Ram* v. *State of U.P.*, (2009) 10 SCC 689 : (2009) 4 SCC (Civ) 328, *relied on*

O-M/A/52636/SV

Advocates who appeared in this case :

Kailash Vasdev and P. Vishwanath, Senior Advocates (Girish Ananthmurthy, Umrao Singh Rawat and Ms Vaijayanthi Girish, Advocates) for the Petitioners;

Rama Jois and K.N. Bhat Shetty, Senior Advocates (S.N. Bhat, D.P. Chaturvedi, Ravi Panwar, Dasharath T.M., V.N. Raghupathy and Anantha Narayana M.G., Advocates) for the Respondents.

Chronological list of cases cited ***on page(s)***

1. (2012) 12 SCC 133 : (2013) 2 SCC (Civ) 136 : (2013) 4 SCC (Cri) 587 : (2013) 3 SCC (L&S) 416, *V. Chandrasekaran* v. *Administrative Officer* 400*g*
2. Writ Appeal No. 1421 of 2008, decided on 24-10-2011, *K.N. Aswathanarayana Setty* v. *State of Karnataka* sub nom *Ruksana Parveen* v. *State of Karnataka*, Writ Appeal No. 1014 of 2008 (KAR) 398*a*, 398*c-d*, 399*b*
3. (2010) 14 SCC 370 : (2012) 1 SCC (Civ) 489, *T.G. Ashok Kumar* v. *Govindammal* 400*e-f*
4. (2010) 8 SCC 467 : (2010) 3 SCC (Civ) 415, *Sulochana Chandrakant Galande* v. *Pune Municipal Transport* 402*c*
5. (2009) 10 SCC 689 : (2009) 4 SCC (Civ) 328, *Tika Ram* v. *State of U.P.* 401*c*
6. (2008) 9 SCC 177, *Meera Sahni* v. *Lt. Governor of Delhi* 401*c*
7. ILR 2008 KAR 3961 : (2009) 3 Kant LJ 340, *M.V. Kasturi* v. *State of Karnataka* 399*b*
8. WP No. 11502 of 2006, decided on 17-4-2008 (KAR), *K.N. Aswathanarayana Setty* v. *State of Karnataka* 398*a*, 398*c-d*, 399*a-b*
9. (2006) 13 SCC 608, *Sanjay Verma* v. *Manik Roy* 400*d*
10. (2005) 6 SCC 745, *Mandir Shree Sita Ramji* v. *Collector (LA)* 402*c*
11. (2004) 2 SCC 601, *Raj Kumar* v. *Sardari Lal* 400*d*
12. (2003) 1 SCC 722, *Venkatrao Anantdeo Joshi* v. *Malatibai* 400*d*
13. WP No. 19968 of 2002, decided on 19-2-2003 (KAR), *K.N. Aswathnarayana Shetty* v. *State of Karnataka* 398*e-f*
14. (2001) 1 SCC 610, *State Govt. Houseless Harijan Employees' Assn.* v. *State of Karnataka* 398*d*, 401*f-g*
15. (1996) 7 SCC 426, *Sneh Prabha* v. *State of U.P.* 401*b-c*
16. (1995) 6 SCC 150, *K. Adivi Naidu* v. *E. Duruvasulu Naidu* 400*d*
17. (1993) 4 SCC 369, *Satendra Prasad Jain* v. *State of U.P.* 402*c*
18. (1975) 2 SCC 547, *Lila Ram* v. *Union of India* 401*b-c*
19. (1973) 2 SCC 705, *Rajender Singh* v. *Santa Singh* 400*d-e*
20. (1970) 2 SCC 149, *Lt. Governor of H.P.* v. *Avinash Sharma* 402*b-c*

The Judgment of the Court was delivered by

DR B.S. CHAUHAN, J.— These petitions have been filed against the judgment and order dated 24-10-2011, passed by the High Court of Karnataka

SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 5 Thursday, August 03, 2023
Printed For: Mr. Debajyoti Datta
SCC Online Web Edition: http://www.scconline.com
TruePrint™ source: Supreme Court Cases, © 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.

at Bangalore in *K.N. Aswathanarayana Setty* v. *State of Karnataka*[1], etc. affirming the judgment of the learned Single Judge dated 17-4-2008 passed in *K.N. Aswathanarayana Setty* v. *State of Karnataka*[2], by which and whereunder the Court had quashed the order dated 27-2-2004, passed by the Revenue Minister, Government of Karnataka denotifying the suit land from acquisition.

2. The facts and circumstances giving rise to these petitions are: that a preliminary notification under Section 4(1) of the Land Acquisition Act, 1894 (hereinafter referred to as "the 1894 Act") was issued in respect of huge chunk of land including Survey No. 49/1 admeasuring 15 acres on 6-8-1991 for the benefit of the State Government Houseless Harijan Employees Association (Regd.) (hereinafter referred to as "the Society"). In respect of the same land declaration under Section 6 of the 1894 Act was issued on 15-5-1992. At the behest of the then owners of the suit land the Government denotified the land from acquisition vide Order dated 5-8-1993 issuing notification under Section 48(1) of the 1894 Act. Aggrieved, Respondent 3 Society, challenged the said order of denotifying the land from acquisition by filing writ petition which was dismissed[2] by the learned Single Judge. The said order was also affirmed by the Division Bench[1] dismissing the writ appeal preferred by the Society. The Society approached this Court by filing special leave petitions which were entertained and finally heard Civil Appeal No. 5015 of 1999, etc. and this Court vide judgment and order dated 11-12-2000[3] quashed the order dated 5-8-1993 denotifying the suit land from acquisition.

3. During the pendency of Civil Appeal No. 5015 of 1999, etc. filed by the respondent Society, the present petitioners purchased the suit land in the years 1997-1998 and approached the Government of Karnataka to denotify the said land from acquisition. As their application for release was not dealt with by the Government, they preferred Writ Petitions Nos. 19968-97 of 2002, etc. before the High Court for directions to the Government to release the land. The High Court vide judgment and order dated 19-2-2003[4] disposed of the said writ petition, directing the Government to decide their application in accordance with law expeditiously. In pursuance of the High Court order, the Government of Karnataka issued notice to all parties concerned and against all the parties the Hon'ble Revenue Minister passed an order dated 27-2-2004, directing to denotify the land from acquisition.

4. The order dated 27-2-2004 was not complied with as the Deputy Secretary to the Government of Karnataka raised certain objections and made an endorsement dated 21-9-2005 that the matter had attained finality after being decided by this Court and possession of the land had already been taken and

1 Writ Appeal No. 1421 of 2008, decided on 24-10-2011 sub nom *Ruksana Parveen* v. *State of Karnataka*, Writ Appeal No. 1014 of 2008 (KAR)
2 WP No. 11502 of 2006, decided on 17-4-2008 (KAR)
3 *State Govt. Houseless Harijan Employees' Assn.* v. *State of Karnataka*, (2001) 1 SCC 610 : AIR 2001 SC 437
4 *K.N. Aswathnarayana Shetty* v. *State of Karnataka*, WP No. 19968 of 2002, decided on 19-2-2003 (KAR)

SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 6 Thursday, August 03, 2023
Printed For: Mr. Debajyoti Datta
SCC Online Web Edition: http://www.scconline.com
TruePrint™ source: Supreme Court Cases, © 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.

handed over to the respondent Society on 6-9-2002, much prior to the order passed by the Hon'ble Minister.

5. The present petitioners filed Writ Petition No. 11502 of 2006, etc. before the High Court to quash the endorsement dated 21-9-2005 made by the learned Deputy Secretary, Government of Karnataka. The writ petition stood dismissed on 17-4-2008[2] in terms of the judgment of the same date in a similar case i.e. *M.V. Kasturi* v. *State of Karnataka*[5].

6. Aggrieved, the petitioners preferred Writ Appeal No. 1421 of 2008 which has been dismissed by the impugned judgment and order[1]. Hence, these petitions.

7. Shri Kailash Vasdev, learned Senior Counsel appearing for the petitioners submitted that the courts below have committed an error in dismissing the case of the petitioners as the courts failed to appreciate the legal issues. This Court set aside the order of denotification dated 5-8-1993 on a technical ground as the order of denotification was passed without hearing the respondent Society for whose benefit the land had been acquired. Thus, there could be no prohibition for the State to denotifying the land from acquisition after hearing the parties concerned. More so, the Hon'ble Minister had competence to deal with the acquisition proceedings and thus the finding recorded by the High Court about his competence is perverse. More so, as there was no interim order of this Court in the Society's appeal, the petitioners could purchase the land. Hence, these petitions should be accepted.

8. Per contra, Shri Rama Jois and Shri K.N. Bhat, learned Senior Counsel for the respondents have opposed the petitions contending that this Court has set aside the order dated 5-8-1993 denotifying the land from acquisition not only on the ground of violation of principles of natural justice but also on merits as it had been held by this Court that there was no justification for denotifying the land. The present petitioners are purchasers of land subsequent to notification under Section 4(1) of the 1894 Act, and they could not purchase the land at all. In view of the fact that the appeal filed by Respondent 3 against the order dated 5-8-1993 was pending before this Court, the doctrine of lis pendens would apply. Thus, the petitions are liable to be dismissed.

9. We have considered the rival submissions made by the learned counsel for the parties and perused the record.

10. The facts are not in dispute. At the time of purchase of the suit land by the present petitioners the matter was sub judice before this Court and if the order of denotification dated 5-8-1993 stood quashed, it would automatically revive the land acquisition proceedings meaning thereby the notification under Section 4 and declaration under Section 6 resurfaced by operation of law. In such a fact situation, it is not permissible for the present petitioners to argue that

2 *K.N. Aswathanarayana Setty* v. *State of Karnataka*, WP No. 11502 of 2006, decided on 17-4-2008 (KAR)
5 ILR 2008 KAR 3961 : (2009) 3 Kant LJ 340
1 *K.N. Aswathanarayana Setty* v. *State of Karnataka*, Writ Appeal No. 1421 of 2008, decided on 24-10-2011

SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 7 Thursday, August 03, 2023
Printed For: Mr. Debajyoti Datta
SCC Online Web Edition: http://www.scconline.com
TruePrint™ source: Supreme Court Cases, © 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.

merely because there was no interim order in the appeal filed by Respondent 3, the petitioners had a right to purchase the land during the pendency of the litigation and would not be bound by the order of this Court quashing the denotification of acquisition proceedings.

11. The doctrine of lis pendens is based on legal maxim *ut lite pendente nihil innovetur* (during a litigation nothing new should be introduced). This doctrine stood embodied in Section 52 of the Transfer of Property Act, 1882. The principle of "lis pendens" is in accordance with the equity, good conscience or justice because they rest upon an equitable and just foundation that it will be impossible to bring an action or suit to a successful termination if alienations are permitted to prevail. A transferee pendente lite is bound by the decree just as much as he was a party to the suit. A litigating party is exempted from taking notice of a title acquired during the pendency of the litigation. However, it must be clear that mere pendency of a suit does not prevent one of the parties from dealing with the property constituting the subject-matter of the suit. The law simply postulates a condition that the alienation will, in no manner, affect the rights of the other party under any decree which may be passed in the suit unless the property was alienated with the permission of the court. The transferee cannot deprive the successful plaintiff of the fruits of the decree if he purchased the property pendente lite. (Vide *K. Adivi Naidu* v. *E. Duruvasulu Naidu*[6], *Venkatrao Anantdeo Joshi* v. *Malatibai*[7], *Raj Kumar* v. *Sardari Lal*[8] and *Sanjay Verma* v. *Manik Roy*[9].)

12. In *Rajender Singh* v. *Santa Singh*[10], while dealing with the application of doctrine of lis pendens, this Court held as under: (SCC p. 711, para 15)

> "*15.* The doctrine of lis pendens was intended to strike at attempts by parties to a litigation to circumvent the jurisdiction of a court, in which a dispute on rights or interests in immovable property is pending, by private dealings which may remove the subject-matter of litigation from the ambit of the court's power to decide a pending dispute or frustrate its decree."

(See also *T.G. Ashok Kumar* v. *Govindammal*[11].)

13. In view of the above, we are of the considered opinion that it is not permissible to say that in case the petitioners had purchased the suit property during the pendency of the appeal filed by Respondent 3 before this Court, the petitioners are not bound by the final orders of this Court.

14. By operation of law, as this Court quashed the denotification of acquisition proceedings, the proceedings stood revived. In *V. Chandrasekaran* v. *Administrative Officer*[12], this Court considered the right of purchaser of land subsequent to the issuance of Section 4 notification and held that anyone who

6 (1995) 6 SCC 150
7 (2003) 1 SCC 722
8 (2004) 2 SCC 601
9 (2006) 13 SCC 608
10 (1973) 2 SCC 705
11 (2010) 14 SCC 370 : (2012) 1 SCC (Civ) 489
12 (2012) 12 SCC 133 : (2013) 2 SCC (Civ) 136 : (2013) 4 SCC (Cri) 587 : (2013) 3 SCC (L&S) 416

SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 8 Thursday, August 03, 2023
Printed For: Mr. Debajyoti Datta
SCC Online Web Edition: http://www.scconline.com
TruePrint™ source: Supreme Court Cases, © 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.

deals with the land subsequent to a Section 4 notification being issued, does so, at his own peril. 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 anyone to encumber the land acquired thereunder". The alienation thereafter does not bind the State or the beneficiary under the acquisition. In fact, 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. Thus, the purchaser cannot challenge the acquisition proceedings. While deciding the said case this Court placed reliance on a very large number of its earlier judgments including *Lila Ram* v. *Union of India*[13], *Sneh Prabha* v. *State of U.P.*[14], *Meera Sahni* v. *Lt. Governor of Delhi*[15] and *Tika Ram* v. *State of U.P.*[16]

15. 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.

16. In order to meet the menace of sale of land after initiation of acquisition proceedings, various States enacted the Acts and making such transfers as punishable e.g. the Delhi Lands (Restrictions on Transfer) Act, 1972 made the sales permissible only after grant of permission for transfer by the authority prescribed therein. In absence of such permission if the sale is made in contravention of the statutory provisions it is a punishable offence with imprisonment for a term which may extend to 3 years or with fine or with both. Therefore, we do not see any cogent reason to accept any plea taken by the petitioners that they could purchase the suit land even subsequent to Section 4 notification.

17. We do not find force in the submission made by Shri Kailash Vasdev, learned Senior Counsel that this Court had quashed the denotification of acquisition proceedings only on technical ground as the respondent Society was not heard. This Court in *State Govt. Houseless Harijan Employees' Assn.* v. *State of Karnataka*[3] held as under: (SCC p. 631, para 72)

> "*72.* From all this, the ultimate position which emerges is that the acquisition in favour of the appellant was properly initiated by publication of the notification under Section 4(1) and by the declaration issued under Section 6. The withdrawal of the acquisition under Section 48(1) was vitiated *not only* because the appellant was not heard *but also because the*

13 (1975) 2 SCC 547
14 (1996) 7 SCC 426
15 (2008) 9 SCC 177
16 (2009) 10 SCC 689 : (2009) 4 SCC (Civ) 328
3 (2001) 1 SCC 610 : AIR 2001 SC 437

SCC Online Web Edition, © 2023 EBC Publishing Pvt. Ltd.
Page 9 Thursday, August 03, 2023
Printed For: Mr. Debajyoti Datta
SCC Online Web Edition: http://www.scconline.com
TruePrint™ source: Supreme Court Cases, © 2023 Eastern Book Company. The text of this version of this judgment is protected by the law declared by the Supreme Court in Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1 paras 61, 62 & 63.

reason for withdrawal was wrong. The High Court erred in dismissing the appellant's writ petition. The decision of the High Court is accordingly set aside. The impugned notification under Section 48(1) is quashed and the appeal is allowed with costs." (emphasis added)

18. There is ample evidence on record to show that possession of the suit land had been taken on 6-9-2002. In such a fact situation, question of denotifying the acquisition of land could not arise. Thus, the order dated 27-2-2004 could not be passed. There cannot be a dispute in law that upon possession being taken under Section 16 or 17 of the 1894 Act, the land vests in the State free from all encumbrances. Thus, in case possession of the land has been taken, application for release of land from acquisition is not maintainable. Once the land is vested in the State free from encumbrances, it cannot be divested. (See *Lt. Governor of H.P.* v. *Avinash Sharma*[17], *Satendra Prasad Jain* v. *State of U.P.*[18], *Mandir Shree Sita Ramji* v. *Collector (LA)*[19] and *Sulochana Chandrakant Galande* v. *Pune Municipal Transport*[20].)

19. In view of the above, we do not think it necessary to examine the other issues raised in the petitions particularly, the competence of the Hon'ble Minister to deal with the matter.

20. The petitions are devoid of any merit and are accordingly dismissed. However, it is made clear that the petitioners shall be entitled to compensation as determined under the provisions of the 1894 Act.

---

17 (1970) 2 SCC 149
18 (1993) 4 SCC 369
19 (2005) 6 SCC 745
20 (2010) 8 SCC 467 : (2010) 3 SCC (Civ) 415