

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT-C No. 30608 of 2018

Date of Order : September 05, 2022

Sursati

..... Petitioner

Through: M/s Tanuj Dwivedi and Ajay Kumar Singh,
Advocates

v/s

State of U.P. and others

..... Respondents

Through: Mr. Neeraj Tripathi, Additional Advocate General,
with Mr. Shashank Shekhar Singh, Additional Chief
Standing Counsel and Mr. Manoj Tripathi, Standing
Counsel for respondent Nos. 1 to 4

Mr. Devendra Kumar, Advocate for respondent
Nos. 5 & 6 and

Mr. Pramod Kumar Pandey, Advocate for
respondent No.7

**CORAM : HON'BLE RAJESH BINDAL, CHIEF JUSTICE
HON'BLE PRAKASH PADIA, JUDGE
HON'BLE PIYUSH AGRAWAL, JUDGE**

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RAJESH BINDAL, C.J.

1. The matter has been placed before this Bench on a reference made by a Division Bench of this Court vide order dated January 22, 2020, seeking opinion on the following questions:-

“(i) Whether a subsequent purchaser of the land acquired under the National Highways Act, 1956, after publication of declaration under Section 3D(1), is not entitled to receive compensation on the strength of his vendor's title in view of Section 3D(2)?

- (ii) Which of the judgments (i) Surendra Nath Singh Yadav (supra) or (ii) Vipin Kumar Agarwal, Asha Devi and Smt. Gyanti Singh, lay down the law correctly?”

2. For the purposes of clarity, Question Nos. (i)¹ and (ii) referred to above, are reframed as follows:

- “**1A.** Whether the purchaser of the land, after publication of the declaration under Section 3-D(1) of the National Highways Act, 1956 is entitled to receive compensation on strength of his vendor's title?
- 1B.** Whether the purchaser of the land, after determination of amount of compensation under Section 3-G of the National Highways Act, 1956 is entitled to receive compensation on strength of his vendor's title from competent authority?
- II.** Which of the judgments (i) Surendra Nath Singh Yadav Vs. Union of India and others, [2018 (2) ADJ 760 (DB)] or (ii) Vipin Agarwal Vs. Union of India and others, Writ-C No. 10958 of 2018 (DB), dated 27.03.2018, Asha Devi Vs. National Highway Authority of India and others, Writ-C No. 9874 of 2018 (DB), dated 16.03.2018 and Smt. Gyanti Singh Vs. State of U.P. and others, Writ-C No. 12158 of 2018 (DB), dated 03.04.2018, lay down the law correctly?”

3. Brief facts, as emerge from the order of reference, are that one Ram Dulari, widow of late Pataru, executed a sale deed on January 21, 2016 in favour of the petitioner for an area of 0.430 hectare of Gata No. 535 situated in Mauja Pirthipur, Pargana Pachotar, District Ghazipur. After the name of the petitioner was entered in the revenue record, she came to know that the land in question had already been acquired by the National Highway Authority for which notification under Section 3-A of the National Highways Act, 1956 (hereinafter referred to as the ‘1956 Act’) was issued on December 1, 2014. It was followed by a notification issued under Section 3-D of the 1956 Act on November 27, 2015. The award was also announced on December 25, 2015. The land was purchased by the petitioner vide sale deed dated January 21, 2016, after the issuance of notification under Section

1 Reframed as 1A and 1B

3-D of the 1956 Act and passing of the award by the competent authority, on December 25, 2015.

4. The amount of compensation having not been paid to the petitioner, she raised an issue. The stand of the respondents was that on issuance of the notification under Section 3-D of the 1956 Act, the land having been vested in the Central Government, any sale transaction thereafter is void and will not confer any right on the vendee.

5. The vendor of the petitioner was also impleaded as respondent No.7 in the writ petition, who died during pendency thereof and her legal representative has been substituted thereafter.

6. The argument raised by learned counsel for the petitioner is that even if the sale deed executed by the vendor of the petitioner is held to be void but still she has a right to receive compensation on the strength of the vendor's title, in whose name the land was admittedly recorded before issuance of notification under Section 3-D of the 1956 Act. The position is anomalous as Section 3-D of the 1956 Act provides that on publication of notification thereunder, the land shall vest in the Central Government free from all encumbrances, without even assessment or payment of compensation. In the case in hand, the vendor of the petitioner does not have any objection, in case the amount of compensation is paid to the petitioner. In the circumstances, the Government should not have any objection. He has referred to a Division Bench judgment of this Court in **Surendra Nath Singh Yadav Vs. Union of India and others**², wherein it has been held that the subsequent purchaser has no right to challenge the acquisition of land, however, he can claim compensation for the acquired land. He further referred to the judgments of Hon'ble the Supreme Court in **V. Chandrasekaran and another Vs. Administrative Officer and others**³, and **Union of India and another Vs. Tarsem Singh and others**⁴, in support of his arguments.

2 [2018 (2) ADJ 760 (DB)]

3 (2012) 12 SCC 133

4 AIR 2019 SC 4689

7. On the other hand, learned counsel for the National Highway Authority of India, submitted that the provisions of Section 3-D(2) of the 1956 Act, clearly provide that on issuance of notification thereunder, the land shall vest in the Central Government. Thereafter, the landowner loses his right to transfer the title thereof. Hence, any sale transaction entered into between the parties after issuance of notification under Section 3-D of the 1956 Act on November 27, 2015, is void. He further submitted that the view expressed by the three Division Benches of this Court in **Asha Devi Vs. National Highways Authority of India and others**⁵; **Smt. Gyanti Singh Vs. State of U.P. and others**⁶ and **Vipin Agrawal Vs. Union of India and others**⁷ is correct. He also submitted that the judgment of Hon'ble the Supreme Court in **Government (NCT of Delhi) Vs. Manav Dharam Trust and another**⁸ was overruled by Hon'ble the Supreme Court in **Shiv Kumar and another Vs. Union of India and others**⁹.

8. Learned counsel for the State referred to a Division Bench judgment of this Court in **Riyazuddin and another Vs. Union of India and others**¹⁰, wherein it was held that the transferee of land after issuance of notification under Section 3-D of the 1956 Act, will not have any right to receive compensation. There is no challenge to the vires of the provisions of the 1956 Act.

9. While referring to the provisions of the Land Acquisition Act, 1894 (hereinafter referred to as the '1894 Act'), the learned counsel for the State submitted that the scheme of the 1894 Act is different, as the land in that case vests in the State after the award is announced under Section 11 of the said Act. Prior to that, the owner can deal with the same. It is only after that any sale transaction is void. Hence, any judgment dealing with the provisions of the 1894 Act will be distinguishable.

5 Writ-C No. 9874 of 2018 (DB), decided on March 16, 2018

6 Writ-C No. 12158 of 2018 (DB), decided on May 3, 2018

7 Writ-C No. 10958 of 2018 (DB), decided on March 27, 2018

8 (2017) 6 SCC 751

9 (2019) 10 SCC 229

10 [2018 (8) ADJ 358 (DB)]

10. In response, learned counsel for the petitioner submitted that the amount of compensation is determined and payable in terms of Section 3-G of the 1956 Act. Section 3-G(3) provides that before determining the compensation under sub-section (1) thereof on account of acquisition of land, the competent authority is required to give a public notice inviting claims from all persons interested in the land to be acquired. Sub-section (4) thereof provides that the persons interested, whose land is acquired, can appear before the competent authority and state before him the nature of their interest in the land to be acquired. After the sale deed is registered, the petitioner certainly became person interested in the land, hence, could file her claim and has a right to receive the compensation.

11. Heard learned counsel for the parties and perused the relevant referred record.

RELEVANT PROVISIONS OF THE NATIONAL HIGHWAYS ACT, 1956

12. The relevant provisions of Sections 3-A, 3-D, 3-E and 3-G of the 1956 Act, are extracted below:-

“3-A. Power to acquire land, etc. – (1) Where the Central Government is satisfied that for a public purpose any land is required for the building, maintenance, management or operation of a national highway or part thereof, it may, by notification in the Official Gazette, declare its intention to acquire such land.

(2) Every notification under sub-section (1) shall give a brief description of the land.

(3) The competent authority shall cause the substance of the notification to be published in two local newspapers, one of which will be in a vernacular language.

3-D. Declaration of acquisition.—(1) Where no objection under sub-section (1) of section 3-C has been made to the competent authority within the period specified therein or where the competent authority has disallowed the objection under sub-section (2) of that section, the competent authority shall, as soon as may be, submit a report accordingly to the Central Government and on receipt of such report, the Central Government shall declare, by notification in the Official Gazette, that the land should be acquired for the purpose or purposes mentioned in sub-section (1) of section 3-A.

(2) On the publication of the declaration under sub-section (1), the land shall vest absolutely in the Central Government free from all encumbrances.

(3) Where in respect of any land, a notification has been published under sub-section (1) of section 3-A for its acquisition but no declaration under sub-section (1) has been published within a period of one year from the date of publication of that notification, the said notification shall cease to have any effect:

Provided that in computing the said period of one year, the period or periods during which any action or proceedings to be taken in pursuance of the notification issued under sub-section (1) of section 3-A is stayed by an order of a Court shall be excluded.

(4) A declaration made by the Central Government under sub-section (1) shall not be called in question in any court or by any other authority.

3-E. Power to take possession.—(1) Where any land has vested in the Central Government under sub-section (2) of section 3-D, and the amount determined by the competent authority under section 3-G with respect to such land has been

deposited under sub-section (1) of section 3-H, with the competent authority by the Central Government, the competent authority may by notice in writing direct the owner as well as any other person who may be in possession of such land to surrender or deliver possession thereof to the competent authority or any person duly authorised by it in this behalf within sixty days of the service of the notice.

(2) If any person refuses or fails to comply with any direction made under sub-section (1), the competent authority shall apply-

- (a) in the case of any land situated in any area falling within the metropolitan area, to the Commissioner of Police;
- (b) in case of any land situated in any area other than the area referred to in clause (a), to the Collector of a District,

and such Commissioner or Collector, as the case may be, shall enforce the surrender of the land, to the competent authority or to the person duly authorised by it.

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3-G. Determination of amount payable as compensation.

—(1) Where any land is acquired under this Act, there shall be paid an amount which shall be determined by an order of the competent authority.

(2) Where the right of user or any right in the nature of an easement on, any land is acquired under this Act, there shall be paid an amount to the owner and any other person whose right of enjoyment in that land has been affected in any manner whatsoever by reason of such acquisition an amount calculated

at ten per cent of the amount determined under sub-section (1), for that land.

(3) Before proceeding to determine the amount under sub-section (1) or sub-section (2), the competent authority shall give a public notice published in two local newspapers, one of which will be in a vernacular language inviting claims from all persons interested in the land to be acquired.

(4) Such notice shall state the particulars of the land and shall require all persons interested in such land to appear in person or by an agent or by a legal practitioner referred to in sub-section (2) of section 3-C, before the competent authority, at a time and place and to state the nature of their respective interest in such land.

(5) If the amount determined by the competent authority under sub-section (1) or sub-section (2) is not acceptable to either of the parties, the amount shall, on an application by either of the parties, be determined by the arbitrator to be appointed by the Central Government.

(6) Subject to the provisions of this Act, the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996) shall apply to every arbitration under this Act.

(7) The competent authority or the arbitrator while determining the amount under sub-section (1) or sub-section (5), as the case may be, shall take into consideration—

- (a) the market value of the land on the date of publication of the notification under section 3-A;
- (b) the damage, if any, sustained by the person interested at the time of taking possession of the land, by reason of the severing of such land from other land;

- (c) the damage, if any, sustained by the person interested at the time of taking possession of the land, by reason of the acquisition injuriously affecting his other immovable property in any manner, or his earnings;
- (d) if, in consequences of the acquisition of the land, the person interested is compelled to change his residence or place of business, the reasonable expenses, if any, incidental to such change.”

13. There are two sets of judgments of this Court dealing with the issue. In **Surendra Nath Singh Yadav’s case (supra)**, the notification under Section 3-D of the 1956 Act was published on September 24, 2015 and the sale deed was registered subsequent thereto, on July 22, 2016. The Division Bench was of the opinion that subsequent buyer is a person interested only to the extent of claiming compensation. The relevant paras thereof are extracted below:-

“(4) It is well settled proposition of law by judicial pronouncement of the Apex Court that purchaser of the land subsequent to initiation of the acquisition proceedings has no locus standi to challenge the acquisition proceedings but certainly he is a person interested in the compensation.

(5) Reference may be made to the decision of the Apex Court in the case of *V. Chandrasekaran v. Administrative Officer*, (2012) 12 SCC 133, wherein it has been held as under:

“18. In view of the above, the law on the issue can be summarised to the effect that a person who purchases land subsequent to the issuance of a Section 4 notification with respect to it, is not competent to challenge the validity of the acquisition proceedings on any ground whatsoever, for the reason that the sale-deed executed in his favour does not confer upon him, any title

and at the most he can claim compensation on the basis of his vendor's title.”

(6) The same view has been reiterated in a recent decision of the Apex Court in the case of Government (NCT of Delhi) v. Manav Dharam Trust and another, (2017) 6 SCC 751.

(7) In view of the settled law on the subject, subsequent purchaser is a person interested only to the extent of making a claim of compensation of the land, subject matter of acquisition.

(8) In view of above, right of compensation being claimed by the petitioner is worthy of being considered. However, since the issue involves adjudication into a question of fact, we feel appropriate that the fact finding authority may consider the claim of the petitioner at the initial stage.”

(emphasis supplied)

14. In the other set of judgment, i.e. **Vipin Agrawal’s case (supra)**, the aforesaid judgment in **Surendra Nath Singh Yadav’s case (supra)** was referred to and it was opined that after issuance of the notification under Section 3-D of the 1956 Act, the land vests in the Central Government free from all encumbrances, leaving no title with the vendor to transfer. The sale deed being void ab initio, the same will not confer any right on the subsequent buyer to receive compensation. Relevant paras of the said judgment are reproduced below:-

“It is, therefore, clear that on receipt of the report, the Central Government declares by notification in the official gazette that the land should be acquired for the purpose mentioned in sub-section (1) of Section 3A. Sub-section (2) of Section 3 provides that on the publication of the declaration under sub-section (1), the land shall vest absolutely in the Central Government free from all encumbrances. Thus, on

publication of the declaration in the official gazette on 7 August 2012, the land stood vested in the Central Government free from all encumbrances and the erstwhile owner did not have any right to execute the sale deed in favour of the petitioner. The sale deed was executed by the petitioner is void ab initio and does not confer any right upon the petitioner to receive compensation.

Learned counsel for the petitioner has placed reliance upon a Division Bench of this Court in *Surendra Nath Singh Yadav v. Union of India and Others* reported in 2018 (2) ADJ 760. This decision relies upon the decision of the Supreme Court in the case of *Government (NCT of Delhi) v. Manav Dharam Trust and Another* reported in (2017) 6 SCC 751 which is in connection with the acquisition under the provisions of the National Highways Act, 1956. Unlike the provisions of sub-Section 3D(2) of the Act under the Land Acquisition Act, the property vests in the State Government free from all encumbrances either under Section 16 or under Section 17, on possession being taken and not on the publication of the declaration under Section 6 of the Act.

Thus, the decision in the case of *Surender Nath*, does not help the petitioners. The petitioners can initiate appropriate proceedings against the erstwhile owner.” (*emphasis supplied*)

15. Similar view was expressed in **Smt. Gyanti Singh’s, Asha Devi’s, and Riyazuddin and another’s cases (supra)**.

THE SCHEME OF THE 1956 ACT

16. As per the scheme of the 1956 Act, the process for acquisition of land starts with the issuance of notification under Section 3-A thereof, a declaration of its intent to acquire the land. Thereafter, Section 3-C of the 1956 Act provides for hearing of objections against the proposed acquisition.

After the procedure prescribed in Section 3-C is concluded, a declaration is issued under Section 3-D of the 1956 Act by way of a notification that the land should be acquired. Sub-section (2) thereof, on which much reliance has been placed upon by the respondents, provides that on publication of declaration under Section 3-D(1), the land shall vest in the Central Government, free from all encumbrances.

17. After issuance of declaration under Section 3-D of the 1956 Act, the procedure as prescribed under Section 3-G for determination of compensation is to be followed. The competent authority is to determine the compensation. However, before that, a public notice is given in two local newspapers inviting claims from all persons interested in the land to be acquired. They can submit their claims before the competent authority with respect to their interest in the land. After the amount is determined under Section 3-G of the 1956 Act, the same is to be deposited by the Central Government with the competent authority in terms of Section 3-H of the 1956 Act, before taking possession of the land.

18. The power under Section 3-E of the 1956 Act is to be exercised by the competent authority for issuing a notice in writing directing the owner or any person who may be in possession to surrender or deliver possession thereof to the competent authority. The power can be exercised only after the provisions of Section 3-H(1) are satisfied. Section 3-H(1) provides that the amount of compensation as determined under Section 3-G shall be deposited by the Central Government.

19. Section 3 in the 1956 Act was substituted vide Amendment Act No. 16 of 1997 with effect from January 24, 1997. New provisions in the form of Sections 3-A to 3-J were added. Section 3-J provided for non-applicability of the 1894 Act to the acquisition under the 1956 Act. The validity thereof was challenged. Hon'ble the Supreme Court in **Tarsem Singh and others' case (supra)** examined the issue with reference to the argument that there was discrimination in award of compensation under two

Statutes namely the 1894 Act and the 1956 Act, though both provided for acquisition of land. As a result, for two portions of land situated adjoining to each other and acquired under the provisions of two different Statutes, the result may be assessment of different compensation. Section 3-J of the 1956 Act was held to be ultra vires.

20. The difference in the scheme of the 1894 Act and the 1956 Act was that under the 1894 Act, vesting of land and right to take possession is provided for in Section 16 thereof. It reads as under:-

“16. **Power to take possession.** – When the Collector has made an award under section 11, he may take possession of the land, which shall thereupon vest absolutely in the Government, free from all encumbrances.”

21. A perusal of the aforesaid provision shows that right to take possession accrues to the Collector only after the award has been made under Section 11 thereof and thereupon the land shall vest in the Government free from all encumbrances. The 1956 Act provides that immediately after issuance of declaration under Section 3-D of the said Act, the land shall vest in the Central Government free from all encumbrances even though Section 3-E, which is similar to the provisions of the 1894 Act with reference to taking over of possession is concerned, provides that after the land is vested in the Central Government in terms of Section 3-D(2) and the amount of compensation has been determined under Section 3-G and the same has been deposited with the competent authority under Section 3-H(1), the competent authority may direct the owner or the person in possession of the land to deliver the same to the competent authority. As per Section 3-H(2), the amount deposited by the Central Government with the competent authority under sub-section (1) will be paid by the competent authority to the person/persons entitled for the said compensation. As per sub-section (3), where several persons claim to be interested in the amount deposited under sub-section (1), the competent authority shall determine the persons who are entitled to receive amount payable to each of them and if there arises any

dispute regarding entitlement of the amount payable, the competent authority shall refer the dispute for decision to the Principal Civil Court of original jurisdiction, as provided under sub-section (4). Under sub-section (6), in case the amount determined by the Arbitrator is in excess of the amount determined by the competent authority, the excess amount together with interest, if any, awarded under sub-section (5) shall be deposited by the Central Government in such manner, as may be prescribed by rules made in that behalf. Thus, after deposit of the amount by the Central Government with the competent authority, the liability of payment of interest is not of the Central Government. In case of dispute amongst the claimants, the amount deposited by the Central Government with the competent authority shall remain deposited with the competent authority.

LEGAL POSITION UNDER THE LAND ACQUISITION ACT, 1894

22. Section 4 of the 1894 Act provides for a notification to be published in the official gazette and local newspapers whenever it appears to the appropriate Government that the land in any locality is needed or likely to be needed for any public purpose. After considering the objection under Section 5A of the person interested, a notification of declaration is issued under Section 6. The notice to person interested for determination of compensation is issued under Section 9. Thereafter, enquiry and award is made by the Collector under Section 11 of the 1894 Act. Under Section 16 thereof, when the Collector has made an award under Section 11, he may take possession of the land, which shall thereupon vest absolutely in Government free from all encumbrances. The Supreme Court in **V. Chandrasekaran and another's case (supra)** opined that the transferee of such a land after issuance of notification under Section 4 of the 1894 Act will not have any right to challenge the acquisition thereof but will have right to receive compensation as he steps into the shoes of the original landowner. The relevant paragraph thereof is extracted herein below:-

“18. In view of the above, the law on the issue can be summarised to the effect that a person who purchases land

subsequent to the issuance of a Section 4 notification with respect to it, is not competent to challenge the validity of the acquisition proceedings on any ground whatsoever, for the reason that the sale deed executed in his favour does not confer upon him, any title and at the most he can claim compensation on the basis of his vendor's title.” (emphasis supplied)

23. In **U.P. Jal Nigam and another Vs. Kalra Properties (P) Ltd. and others**¹¹, M/s Kalara Properties had purchased the land after the notification under Section 4(1) of the 1894 Act was published. It was held that the sale was void against the State and M/s Kalara Properties acquired no right, title or interest in the land. It could not challenge the validity of the notification or the irregularity in taking possession of land before publication of the declaration under Section 6. Any encumbrance created by the owner after Section 4(1) notification is published does not bind the Government and such a purchaser does not acquire any title on the property. The purchaser is a person interested in the compensation, since he steps into the shoes of erstwhile owner, and is entitled to claim compensation. Relevant parts of paragraphs 3 and 4 of the **U.P. Jal Nigam's case (supra)** are being reproduced as under:-

"3. ... It is settled law that after the notification under Section 4(1) is published in the Gazette any encumbrance created by the owner does not bind the Government and the purchaser does not acquire any title to the property. In this case notification under Section 4(1) was published on 24-3-1973, possession of the land admittedly was taken on 5-7-1973 and pumping station house was constructed. No doubt, declaration under Section 6 was published later on 8-7-1973. Admittedly power under Section 17(4) was exercised dispensing with the enquiry under Section 5-A and on service of the notice under

11 (1996) 3 SCC 124

Section 9 possession was taken, since urgency was acute, viz., pumping station house was to be constructed to drain out flood water. Consequently, the land stood vested in the State under Section 17(2) free from all encumbrances. It is further settled law that once possession is taken, by operation of Section 17(2), the land vests in the State free from all encumbrances unless a notification under Section 48(1) is published in the Gazette withdrawing from the acquisition. Section 11-A, as amended by Act 68 of 1984, therefore, does not apply and the acquisition does not lapse. The notification under Section 4(1) and the declaration under Section 6, therefore, remain valid. There is no other provision under the Act to have the acquired land divested, unless, as stated earlier, notification under Section 48(1) was published and the possession is surrendered pursuant thereto. That apart, since M/s. Kalra Properties, respondent had purchased the land after the notification under Section 4(1) was published, its sale is void against the State and it acquired no right, title or interest in the land. Consequently, it is settled law that it cannot challenge the validity of the notification or the regularity in taking possession of the land before publication of the declaration under Section 6 was published.

4. The next question is: whether the respondent is entitled to compensation and, if so, from what date and at what rate? The original owner has the right to the compensation under Section 23(1) of the Act. Consequently, though the respondent acquired no title to the land, at best he would be entitled to step into the shoes of the owner and claim payment of the compensation, but according to the provisions of the Act. It is settled law that the price prevailing as on the date of the publication of the notification under Section 4(1) is the price to which the owner or person who has an interest in the land is

entitled to. Therefore, the purchaser as a person interested in the compensation, since he steps into the shoes of erstwhile owner, is entitled to claim compensation.” *(emphasis supplied)*

24. In **Sneh Prabha (Smt.) and others Vs. State of U.P. and another**¹², Hon'ble the Supreme Court reiterated that any alienation of land after publication of the notification under Section 4(1) of the 1894 Act did not bind the Government or the beneficiary under the acquisition. It was also held that if any subsequent purchaser acquires land, his/her only right would be subject to the provisions of the Act and/or to receive compensation for the land. Relevant paragraph 5 is extracted herein below:-

"5. Though at first blush, we were inclined to agree with the appellant but on deeper probe, we find that the appellant is not entitled to the benefit of the Land Policy. It is settled law that any person who purchases land after publication of the notification under Section 4(1), does so at his/her own peril. The object of publication of the notification under Section 4(1) is notice to everyone that the land is needed or is likely to be needed for public purpose and the acquisition proceedings point out an impediment to anyone to encumber the land acquired thereunder. It authorises the designated officer to enter upon the land to do preliminaries etc. Therefore, any alienation of land after the publication of the notification under Section 4(1) does not bind the Government or the beneficiary under the acquisition. On taking possession of the land, all rights, titles and interests in land stand vested in the State, under Section 16 of the Act, free from all encumbrances and thereby absolute title in the land is acquired thereunder. If any subsequent purchaser acquires land, his/her only right would be subject to the provisions of the Act and/or to receive compensation for the

12 (1996) 7 SCC 426

land. In a recent judgment, this Court in *Union of India v. Shivkumar Bhargava*, (1995) 2 SCC 427 : JT (1995) 6 SC 274 considered the controversy and held that a person who purchases land subsequent to the notification is not entitled to alternative site. It is seen that the Land Policy expressly conferred that right only on that person whose land was acquired. In other words, the person must be the owner of the land on the date on which notification under Section 4(1) was published. By necessary implication, the subsequent purchaser was elbowed out from the policy and became disentitled to the benefit of the Land Policy." *(emphasis supplied)*

25. To the same effect are the decisions of Hon'ble the Supreme Court in **Rajasthan Housing Board Vs. New Pink City Nirman Sahkari Samiti Ltd. and another**¹³ and **M. Venkatesh and others Vs. Commissioner, Bangalore Development Authority**¹⁴, wherein it has been held that the legal position about the validity of any sale, post issuance of a preliminary notification is fairly well settled by long line of decisions. The sale in such cases is void and *non est* in the eyes of the law giving to the vendee the limited right to claim compensation and no more. Relevant paragraph 16 of the judgment in **M. Venkatesh and others' case (supra)** is extracted herein below:

“16. That brings us to the question whether Prabhaudas Patel and other respondents in SLP (C) No.12016 of 2013 were entitled to any relief from the Court. These respondents claim to have purchased the suit property in terms of a sale deed dated 22-8-1990, i.e. long after the issuance of the preliminary Notification published in July 1984. The legal position about the validity of any such sale, post issuance of a preliminary notification is fairly well settled by a long line of the decisions of this Court. The sale in such cases is void and non-est in the

13 (2015) 7 SCC 601

14 (2015) 17 SCC 1

eyes of law giving to the vendee the limited right to claim compensation and no more. Reference may in this regard be made to the decision of this Court in U.P. Jal Nigam v. Kalra Properties (P) Ltd., AIR 1996 SC 1170, wherein this Court said : (SCC pp. 126-27, para 3)

“3. ... It is settled law that after the notification under Section 4(1) is published in the gazette any encumbrance created by the owner does not bind the Government and the purchaser does not acquire any title to the property. In this case, Notification under Section 4(1) was published on 24-3-1973, possession of the land admittedly was taken on 5-7-1973 and pumping station house was constructed. No doubt, declaration under Section 6 was published later on 8-7-1973. Admittedly power under Section 17(4) was exercised dispensing with the enquiry under Section 5-A and on service of the notice under Section 9 possession was taken, since urgency was acute, viz. pumping station house was to be constructed to drain out flood water. Consequently, the land stood vested in the State under Section 17(2) free from all encumbrances. It is further settled law that once possession is taken, by operation of Section 17(2), the land vests in the State free from all encumbrances unless a notification under Section 48(1) is published in the Gazette withdrawing from the acquisition. Section 11-A, as amended by Act 68 of 1984, therefore, does not apply and the acquisition does not lapse. The notification under Section 4(1) and the declaration under Section 6, therefore, remain valid. There is no other provision under the Act to have the acquired land divested, unless, as stated earlier, notification under Section 48(1) was published and the

possession is surrendered pursuant thereto. That apart, since M/s Kalra Properties, respondent had purchased the land after the notification under Section 4(1) was published, its sale is void against the State and it acquired no right, title or interest in the land. Consequently, it is settled law that it cannot challenge the validity of the notification or the regularity in taking possession of the land before publication of the declaration under Section 6 was published.” *(emphasis supplied)*

26. In **Shiv Kumar and another’s case (supra)**, Hon’ble the Supreme Court held that **Government (NCT of Delhi) Vs. Manav Dharam Trust and another’s case (supra)** does not lay down the law correctly. It was held that purchase of land after issuance of notification under Section 4 of the 1894 Act is void and the buyer cannot seek any declaration that the acquisition under the 2013 Act has lapsed due to illegality/irregularity of taking possession under the 1894 Act. Relevant paras 19 to 24 are extracted below:

“19. The 2013 Act presupposes that a person is required to be rehabilitated and resettled. Such a person who has purchased after Section 4 notification as sale deed is void under the 1894 Act, cannot claim rehabilitation and resettlement as per policy envisaged under the 2013 Act, as his land has not been acquired, but he has purchased a property which has already been acquired by the State Government, he cannot claim even higher compensation, as per proviso to Section 24(2) under the 2013 Act. An original landowner cannot be deprived of higher value under the 2013 Act, which higher compensation was not so contemplated when the void transaction of sale had been entered, and right is conferred under proviso to Section 24(2) on recorded owners under the 1894 Act. We have come across

instances in which after notifications under Section 4 were issued and, the property was purchased at throwaway prices by the builders and unscrupulous persons, such purchases are void and confer no right even to claim higher compensation under Section 24(2) of the 2013 Act as it is to be given to the owner as mentioned in the notification.

20. Given that, the transaction of sale, effected after Section 4 notification, is void, is ineffective to transfer the land, such incumbents cannot invoke the provisions of Section 24. As the sale transaction did not clothe them with the title when the purchase was made; they cannot claim “possession” and challenge the acquisition as having lapsed under Section 24 by questioning the legality or regularity of proceedings of taking over of possession under the 1894 Act. It would be unfair and profoundly unjust and against the policy of the law to permit such a person to claim resettlement or claim the land back as envisaged under the 2013 Act. When he has not been deprived of his livelihood but is a purchaser under a void transaction, the outcome of exploitative tactics played upon poor farmers who were unable to defend themselves.

21. Thus, under the provisions of Section 24 of the 2013 Act, challenge to acquisition proceeding of the taking over of possession under the 1894 Act cannot be made, based on a void transaction nor declaration can be sought under Section 24(2) by such incumbents to obtain the land. The declaration that acquisition has lapsed under the 2013 Act is to get the property back whereas, the transaction once void, is always a void transaction, as no title can be acquired in the land as such no such declaration can be sought. It would not be legal, just and equitable to give the land back to purchaser as land was not capable of being sold which was in process of acquisition under

the 1894 Act. The 2013 Act does not confer any right on purchaser whose sale is ab initio void. Such void transactions are not validated under the 2013 Act. No rights are conferred by the provisions contained in the 2013 Act on such a purchaser as against the State.

22. “Void is, ab initio,” a nullity, is inoperative, and a person cannot claim the land or declaration once no title has been conferred upon him to claim that the land should be given back to him. A person cannot enforce and ripe fruits based on a void transaction to start claiming title and possession of the land by seeking a declaration under Section 24 of the 2013 Act; it will amount to conferment of benefit never contemplated by the law. The question is, who can claim declaration/rights under Section 24(2) for the restoration of land or lapse of acquisition. It cannot be by a person with no title in the land. The provision of the 2013 Act cannot be said to be enabling or authorizing a purchaser after Section 4 to question proceeding taken under the Act of 1894 of taking possession as held in *U.P. Jal Nigam v. Kalra Properties (P) Ltd.*, (1996) 3 SCC 124, which is followed in *M. Venkatesh v. BDA*, (2015) 17 SCC 1 : (2017) 5 SCC (Civ) 387 and other decisions and consequently claim declaration under Section 24 of the 2013 Act. What cannot be done directly cannot be permitted in an indirect method.

23. The provisions of the 2013 Act aimed at the acquisition of land with least disturbance to the landowners and other affected families and to provide just and fair compensation to affected families whose land has been acquired or proposed to be acquired or are affected and to make adequate provisions for such affected persons for their rehabilitation and resettlement. The provisions of 2013 Act aim at ousting all

inter-meddlers from the fray by ensuring payment in the bank account of landholders under Section 77 of the Act.

24. The intendment of the 2013 Act is to benefit farmers, etc. Subsequent purchasers cannot be said to be landowners entitled to restoration of land and cannot be termed to be affected persons within the provisions of 2013 Act. It is not open to them to claim that the proceedings have lapsed under Section 24(2).”

27. It is the consistent opinion of Hon’ble the Supreme Court in various judgments referred to above and lastly in **Shiv Kumar and another’s case (supra)** that a sale deed registered after issuance of notification under Section 4 of 1894 Act is void and does not confer upon the transferee any title. However, at the most, he can claim compensation on the basis of title of the vendor. He is not entitled to challenge the validity of the acquisition or claim any other benefits as may be available to the original landowner.

28. The only difference sought to be pointed out by learned counsel for the respondents was that under the 1956 Act, any sale after the issuance of notification under Section 3-D would be void as, by operation of law, in terms of Section 3-D(2) thereof, the land is vested in the Central Government free from all encumbrances. Another fact, which was not disputed at the time of hearing was that there was no entry made in the revenue record with reference to issuance of notifications under Section 3-A or 3-D of the 1956 Act so as to enable any prospective buyer to know as to whether any land is under acquisition especially in the case in hand where the vesting of land takes place merely after issuance of notification under Section 3-D of the 1956 Act and before the announcement of the award. But the rights of the parties are taken care of, as actual physical possession could be taken only after the award is announced and the amount is deposited with the competent authority.

29. The only issue is as to whether the buyer of the land, after issuance of notification under Section 3-D of the 1956 Act, has right to receive compensation.

PERSONS INTERESTED

30. Section 3-C of the 1956 Act deals with hearing of objections after issuance of notification under Section 3-A thereof which talks of person interested to file objection to the proposal for acquisition of land. Such an objector has a right of hearing as well.

31. Section 3-G(3) of the 1956 Act, which deals with determination of compensation payable on account of acquisition or right to enjoyment of the land also provides that claims ought to be invited from all persons interested in the land to be acquired. Sub-section (4) thereof further provides that such persons interested are entitled to appear before the competent authority to present their respective claims. Sub-sections (7)(b), (c) and (d) thereof provide that the competent authority or the arbitrator, while determining the amount under sub-section (1) or sub-section (5), shall take into consideration the damages suffered by the person interested at the time of taking over possession of the land; injuriously affecting his other immovable property or earnings; compulsion to change his residence or place of business, the reasonable expenses on account of change of residence or place of business.

32. Section 3-H(3) of the 1956 Act provides that where several persons claim to be interested in the amount deposited under sub-section (1), the competent authority shall determine the persons who, in his opinion, are entitled to receive the same. In terms of sub-section (4), in case of dispute as to the apportionment or the person to whom the compensation in full or part is payable, the dispute is to be referred for decision to the court of Principal Civil Judge of original jurisdiction within whose jurisdiction the land is situated.

33. Section 3-G(3) of the 1956 Act provides that before determination of compensation, the competent authority shall give notice in two local newspapers inviting claims from all the persons interested in the land to be acquired. The words used therein ‘*all persons interested*’ and ‘*the land to be acquired*’, establish that the land has not been acquired. The claims can be filed by all persons interested. A person in whose favour a sale deed has been registered before announcement of award, will certainly fall in that category. The term ‘*person interested*’ has not been defined under the 1956 Act though it has been repeatedly used in various provisions of the Act, such as Sections 3-C(1) and 3-G(7)(b), (c) and (d).

34. Despite the fact that the phrase ‘person interested’ has been used in the 1956 Act in number of Sections, but still the same has not been defined. Section 3 of the 1956 Act contains only two definitions, i.e. ‘*competent authority*’ and ‘*land*’. In the absence thereof, to give true meaning to the term ‘*person interested*’ with reference to the spirit of the Act, in our opinion, help can be taken from the Statutes which are *pari materia*.

35. The word “*person interested*” has been defined under Section 3(b) of the 1894 Act. Section 3(x) of the 2013 Act has enlarged the definition of the word “*persons interested*”.

36. The 1894 Act dealt with acquisition of land prior to its repeal with the enactment of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (in short ‘the 2013 Act’). The expression ‘*person interested*’ was defined in Section 3(b) of the 1894 Act to include all persons claiming interest in compensation of the land on account of its acquisition. The same reads as under:-

“**3. Definition.** – In this Act, unless there is something repugnant in the subject or context,–

(a)

(b) the expression “person interested” includes all persons claiming an interest in compensation to be made on account of the acquisition of land under this Act; and a person shall be deemed to be interested in land if he is interested in an easement affecting the land;”

37. Section 3(x) of the 2013 Act has an exhaustive definition of ‘*person interested*’ including all persons claiming interest in compensation on account of acquisition of land. The same reads as under:-

“3. **Definitions.**— In this Act, unless the context otherwise requires,—

(a)

(x) “persons interested” means—

(i) all persons claiming an interest in compensation to be made on account of the acquisition of land under this Act;

(ii) the Scheduled Tribes and other traditional forest dwellers, who have lost any forest rights recognised under the Scheduled Tribes and Other Traditional Forest Dwellers (recognition of Forest Rights) Act, 2006 (2 of 2007);

(iii) a person interested in an easement affecting the land;

(iv) persons having tenancy rights under the relevant State laws including share-croppers by whatever name they may be called; and

(v) any person whose primary source of livelihood is likely to be adversely affected;”

PARI MATERIA

38. The issue is also required to be considered with reference to the doctrine of “*pari materia*”. The term “person interested” has not been

defined in the 1956 Act. In case, two different statutes are *pari materia*, help can be taken from each other for interpretation. Two statutes are *pari materia* to each other in case these deal with the same subject matter. The rationale behind the doctrine of “*pari materia*” is based on the interpretative assumption that words employed in legislation are used in an identical sense. Preamble of the 1894 Act, reads as under:

“An Act to amend the law for the acquisition of land for public purposes and for companies”

39. The aforesaid Act was replaced by the 2013 Act. The Preamble thereof reads as under:

“An Act to ensure, in consultation with institutions of local self-government and Gram Sabhas established under the Constitution, a humane, participative, informed and transparent process for land acquisition for industrialisation, development of essential infrastructural facilities and urbanisation with the least disturbance to the owners of the land and other affected families and provide just and fair compensation to the affected families whose land has been acquired or proposed to be acquired or are affected by such acquisition and made adequate provisions for such affected persons for their rehabilitation and resettlement and for ensuring that the cumulative outcome of compulsory acquisition should be that affected persons become partners in development leading to an improvement in their post acquisition social and economic status and for matters connected therewith or incidental thereto.”

40. Extensive amendment was carried out in the aforesaid 1956 Act vide National Highways Laws (Amendment) Act, 1997 adding the provisions enabling the Government to carry out acquisition of the land under this Act with a view to expedite the process of acquisition. The objects and reasons for introducing the amendment reads as under:

“In order to create an environment to promote private investment in national highways, to speed up construction of highways and to remove bottlenecks in their proper management, it was considered necessary to amend the National Highways Act, 1956 and the National Highways Authority of India Act, 1988.

2. One of the impediments in the speedy implementation of highways projects has been inordinate delay in the acquisition of land. In order to expedite the process of land acquisition, it is proposed that once the Central Government declares that the land is required for public purposes for development of a highway, that land will vest in the Government and only the amount by way of compensation is to be paid and any dispute relating to compensation will be subject to adjudication through the process of arbitration.

3. It was also felt necessary to ensure continuity of the status of bypasses built through private investment. To achieve this, it is proposed to amend the National Highways Act, 1956 so as to include the highway stretches situated within any municipal area as a part of national highway. Further, as the National Highways Act, 1956 permits participation of the private sector in the development of the national highways, it became imperative to amend the National Highways Authority of India Act, 1988 so as to provide that the National Highways Authority of India may seek the participation of the private sector in respect of the highways vested in the Authority.

4. With a view to provide adequate capital and loans to the National Highways Authority of India by the Central Government, it is proposed to make amendment in the National Highways Authority of India Act, 1988.

5. With a view to achieve the above objectives and also as both Houses of Parliament were not in session and the President was satisfied that circumstances existed which rendered it necessary for him to take immediate action, the National Highways Laws (Amendment) Ordinance, 1997 was promulgated by the President on the 24th day of January, 1997.”

41. A perusal of the aforesaid Objects and Reasons shows that the amendments were carried out when the 1894 Act was in existence which was subsequently substituted by the 2013 Act. The only difference being the aforesaid two statutes were general in nature providing for acquisition of land in general whereas under the 1956 Act the acquisition was for a specific purpose, namely for construction of national highways. The scheme of the 1956 Act has already been discussed above with reference to procedure to be adopted for acquisition.

42. Before proceeding further, we may usefully refer to the well-recognised doctrine of “*pari materia*” whereby and whereunder, reference to the decisions dealing with other statutes on the same subject is regarded as a permissible aid to the construction of provisions in a statute. Suffice would be, in this regard, to refer to the decision in **Ahmedabad Pvt. Primary Teachers’ Assn Vs. Administrative Officer and others**¹⁵, wherein this Court applied the doctrine of “*pari materia*” with reference to the relevant observations in Principles of Statutory Interpretation by Justice G.P. Singh as follows (at page 760 of SCC):-

“12.... On the doctrine of “*pari materia*”, reference to other statutes dealing with the same subject or forming part of the same system is a permissible aid to the construction of provisions in a statute. See the following observations contained in Principles of Statutory Interpretation by G.P. Singh (8th Edn.), Syn. 4, at pp. 235 to 239:

15 (2004) 1 SCC 755

“Statutes in pari materia

It has already been seen that a statute must be read as a whole as words are to be understood in their context. Extension of this rule of context permits reference to other statutes in pari materia i.e. statutes dealing with the same subject-matter or forming part of the same system. Viscount Simonds in a passage already noticed conceived it to be a right and duty to construe every word of a statute in its context and he used the word context in its widest sense including ‘other statutes in pari materia’. As stated by Lord Mansfield ‘where there are different statutes in pari materia though made at different times, or even expired, and not referring to each other, they shall be taken and construed together, as one system and as explanatory of each other’.

* * *

The application of this rule of construction has the merit of avoiding any apparent contradiction between a series of statutes dealing with the same subject; it allows the use of an earlier statute to throw light on the meaning of a phrase used in a later statute in the same context; it permits the raising of a presumption, in the absence of any context indicating a contrary intention, that the same meaning attaches to the same words in a later statute as in an earlier statute if the words are used in similar connection in the two statutes; and it enables the use of a later statute as parliamentary exposition of the meaning of ambiguous expressions in an earlier statute.”

43. The following judgments throw light on the issue that the National Highways Act, 1956 as well as the Land Acquisition Act, 1894 and

the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 are *pari materia*:

(i) The Hon'ble Supreme Court in **Nagpur Improvement Trust and another Vs. Vithal Rao and others**¹⁶, has held that it is immaterial whether it is one Acquisition Act or another Acquisition Act under which the land is acquired. If the existence of two Acts could enable the State to give one owner different treatment from another equally situated, the discriminated owner can claim the protection of Article 14.

(ii) The Hon'ble Supreme Court in **Dilawar Singh and others Vs. Union of India and others**¹⁷, while considering the Acquisition of Land under Requisitioning and Acquisition of Immovable Property Act, 1952 adopted the principles of the 1894 Act for the grant of solatium or interest and held that though the provisions of the Requisitioning and Acquisition of Immovable Property Act, 1952 do not make any provision for the grant of solatium or interest to the expropriated landowners, the award of solatium and interest is permissible when the owners who have lost land in similar circumstances and for the same purpose have been given such a benefit.

(iii) The Hon'ble Supreme Court in **Union of India and another Vs. Tarsem Singh and others**¹⁸, held that the object of the National Highways Laws (Amendment) Act, 1997 was to speed up the process of acquiring lands for National Highways which has been achieved. The awarding of solatium and interest has nothing to do with achieving this object. Non-grant of solatium and interest to lands acquired under the National Highways Act, which is available if lands are acquired under the 1894 Act, was held to be bad in law and consequently Section

16 (1973) 1 SCC 500

17 (2010) 14 SCC 357

18 (2019) 9 SCC 304

3-J of the National Highways Act, 1956 was struck down as being violative of Article 14 of the Constitution of India.

(iv) The Hon'ble Supreme Court in **Project Director, National Highways Authority of India Vs. M. Hakeem and another**¹⁹, while considering the scope of powers of Court under Section 34 of Arbitration and Conciliation Act, 1996, held that the object of Amendment Act, 1997 in National Highways Act, 1956 is to expedite the process of acquisition which has been achieved by cutting down the period of hearing of objections and by vesting of land in the Central Government as soon as notification under Section 3D(2) of the National Highways Act is made.

(v) The Madhya Pradesh High Court in **Devi Prasad Singh Vs. State of M.P.**²⁰, while interpreting the expression 'building, maintenance or operation of National Highway' used in Section 3A of the 1956 Act, held that the words used in a statute must be constructed in its context and the word 'context' means not only the statute in which the word is used but also other *pari materia* statutes made at different times. Accordingly the aforesaid expression has been construed in the context of the provisions of the National Highway Authority Act, 1988.

44. From the aforesaid fact, the only inescapable conclusion is that the 1894 Act, the 2013 Act and the 1956 Act are *pari materia*.

45. It is settled that two Acts, which are *pari materia* have to be read in complementary manner so that they do not create contradictions while operation in the same field. The Apex Court in the case of **Board of Trustees of the Port of Bombay and others Vs. Sriyanesh knitters**²¹, held that:

19 (2021) 9 SCC 1

20 W.A. 92/2008, D.O.J. 10.04.2008

21 (1999) 7 SCC 359

“11. The MPT Act is not, in our opinion, an exhaustive and comprehensive code and the said Act has to be read together with other Acts wherever the MPT Act is silent in respect of any matter. The MPT Act itself refers to other enactments which would clearly indicate that the MPT Act is not a complete code in itself which ousts the applicability of other Acts. The preamble of the Act does not show that it is a codifying Act so as to exclude the applicability of other laws of the land. Even if it is a codifying Act unless a contrary intention appears it is presumed not to be intended to change the law. (See Bennion’s Statutory Interpretation, 2nd Edn., p. 444.) Furthermore where codifying statute is silent on a point then it is permissible to look at other laws. In this connection it will be useful to refer to the following observation of the House of Lords in Pioneer Aggregates (UK) Ltd. Vs. Secy. of State for the Environment and others (1984) 2 All ER 358, 363 (HL) : (All ER at p.363):

“Planning law, though a comprehensive code imposed in the public interest, is, of course, based on land law. Where the code is silent or ambiguous, resort to the principles of private law (especially property and contract law) may be necessary so that the courts may resolve difficulties by application of common law or equitable principles. But such cases will be exceptional. And, if the statute law covers the situation, it will be an impermissible exercise of the judicial function to go beyond the statutory provision by applying such principles merely because they may appear to achieve a fairer solution to the problem being considered. As ever in the field of statute law it is the duty of the courts to

give effect to the intention of Parliament as evinced by the statute, or statutory code, considered as a whole.”

12. In *J.K. Steel Ltd. V. Union of India* AIR 1970 SC 1173 : (1969) 2 SCR 481 it was held that cognate and pari-materia legislation should be read together as forming one system and as interpreting and enforcing each other. In *Vidyacharan Shukla V. Khubchand Baghel* AIR 1964 SC 1099 : (1964) 6 SCR 129 it was held that the Code of Civil Procedure has to be read along with the Limitation Act. In *State of Madras v. A. Vaidyanatha Iyer* AIR 1958 SC 61:(1958 SCR 580,590) SCR at p. 590 it was held that Prevention of Corruption Act should be read along with the Evidence Act. In *Mannan Lal v. Chhotaka Bibi* (1970) 1 SCC 769 : (1971) 1 SCR 253 it was held that the Code of Civil Procedure has to be read along with the Court Fees Act. In *Vasudev Ramchandra Shelat v. Pranlal Jayanand Thakkar* (1974) 2 SCC 323 : (1975) 1 SCR 534 this Court observed that the Companies Act should be read along with the Transfer of Property Act.

13. From the aforesaid decisions it clearly follows that it is permissible to read the provisions of the two Acts together when the same are complementary to each other. In fact some provisions of the MPT Act themselves show that other laws are applicable.”

46. It is also settled that the application of Rule of construction has the merit of avoiding any apparent contradiction between a series of statutes dealing with the same subject, it allows the use of an earlier statute to throw light on the meaning of phrase used in a later statute in the same context, it permits raising of a presumption, in the absence of any context indicating a contrary intention that the same meaning attaches to the same words in a later statute as in an statute.

47. The issue to be considered in the present case is not with reference to the title of the land or as to whether the person, who was the recorded owner of the land, had right to transfer the ownership after issuance of notification under Section 3-D of the 1956 Act before the award is announced, rather it is only with reference to the right to receive compensation. In terms of the consistent view of Hon'ble the Supreme Court as referred to earlier, any sale of land after issuance of notification under Section 4 of the 1894 Act is void. Similar is the effect of the provisions of the 1956 Act as, in the 1956 Act, Section 3-A is pari materia to Section 4 of the 1894 Act, whereas Section 6 of the 1894 Act is pari materia to Section 3-D of the 1956 Act. Section 3-D(2) of the 1956 Act provides that after issuance of notification under Section 3-D(1), the land shall vest in the Central Government. In the Land Acquisition Act 1894, vesting of the land takes place after acquisition in terms of Section 16 after the award is announced. In the case in hand, we are not examining that issue. Rather, the matter is being considered only for the limited purpose of right to receive compensation. It is not in dispute that the competent authority is required to pay compensation on account of acquisition of land to any person who may be entitled to it with reference to the acquisition of land. The only issue is as to who will be paid that compensation. In our view, in case the principles of law laid down in various judgments of Hon'ble the Supreme Court dealing with the provisions of the 1894 Act are considered, in the case of acquisition of land under the 1956 Act also, the subsequent buyer of the land, after issuance of notification under Section 3-D but before announcement of the award, will certainly have the right to receive compensation. He will step into the shoes of the vendor only for the limited extent of receiving compensation. He will not get any right to challenge the acquisition as such.

48. From the legal position settled by various pronouncements of Hon'ble the Supreme Court, it is clear that a person who has purchased the land after issuance of the notification under Section 3-A of the 1956 Act has no right to challenge the acquisition proceedings, however, he being person

aggrieved may claim compensation to be awarded by the competent authority. While laying down the aforesaid proposition, Hon'ble the Supreme Court considered the definition the words "person interested" and held that he is entitled to claim compensation from the competent authority. However, there may be cases where the purchaser has purchased the land after determination of compensation under Section 3-G of the 1956 Act. Such person could not be included in the definition of the words "person interested", as he had purchased the land when the entire proceedings had been concluded and the land was vested with the Government. He has no right to claim compensation from the Government/Competent Authority. Such a person may have remedy under Common Laws to claim damages or the sale consideration paid by him to the vendor as the transaction is void *ab initio*.

ANSWER

49. **Question No. 1A** is answered in the affirmative. It is held that a subsequent purchaser of the land after publication of the notification under Section 3-D of the National Highways Act, 1956 shall be entitled to receive only compensation on strength of his vendor's title. He will not have any right to question the acquisition or claim any other benefits. However, it shall be subject to notice to the vendor and his no objection.

Question No. 1B is answered in the negative. The person who has purchased the land after determination of the compensation under Section 3-G of the National Highways Act, 1956 is not entitled to claim any compensation from the competent authority. His remedy may be under the common law to claim damages or any other amount from his vendor.

As regards **Question No.2**, it is held that the judgment in **Surendra Nath Singh Yadav Vs. Union of India & others, [2018 (2) ADJ 760 (DB)]**, lays down the law correctly. The judgments in **Vipin Agarwal Vs. Union of India and others, Writ-C No. 10958 of 2018 (DB), dated 27.03.2018, Asha Devi Vs. National Highways Authority of India and others, Writ-C No. 9874**

of 2018 (DB), dated 16.03.2018 and **Smt. Gyanti Singh Vs. State of U.P. and others**, Writ-C No. 12158 of 2018 (DB), dated 03.04.2018 do not lay down the law correctly, hence, overruled.

50. The matter shall now be placed before the Division Bench for disposal in light of the questions so answered, on September 26, 2022 as per roster.

(Piyush Agrawal, J.) (Prakash Padia, J.) (Rajesh Bindal, C.J.)

Allahabad
September 05, 2022
AHA

Whether the order is speaking : Yes/No
Whether the order is reportable : Yes