

Delhi Development Authority Vs. MGS (India) Pvt. Ltd. & Ors.

Civil Appeal No. 944 of 2023 @ SLP (C) No. 18982 of 2022
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Full judgment text

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Govt. of NCT of Delhi through Secretary Land & Building Department & Anr. Vs. MGS (India) Pvt. Ltd. & Ors.

[Civil Appeal No. 947 of 2023 @ SLP (C) No. 3167 of 2023 @ Diary No. 1203 of 2023]

M.R. Shah, J.

1. Feeling aggrieved and dissatisfied with the impugned judgment and order passed by the High Court of Delhi at New Delhi dated 20.07.2015 in Writ Petition (C) No. 910 of 2015 by which the High Court has allowed the said writ petition and has declared that the acquisition with respect to the land in question is deemed to have lapsed by virtue of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as "Act, 2013"), the Delhi Development Authority (DDA) as well as Government of NCT of Delhi have preferred the present appeals.

2. Learned counsel appearing on behalf of the appellants has vehemently submitted that the original writ petitioner before the High Court was the subsequent purchaser, who admittedly purchased the property - land in question after the acquisition proceedings commenced and the award was declared. It is submitted that therefore, the original writ petitioner being a subsequent purchaser had no locus to challenge the acquisition proceedings and/or lapsing of the acquisition proceedings.

It is submitted that the aforesaid objection was taken before the High Court and even it was specifically mentioned in the counter before the High Court, however, the Hon'ble High Court has not decided the locus of the original writ petitioner to pray for lapsing of the acquisition being a subsequent purchaser. Reliance is placed on the decisions of this Court in the case of Shiv Kumar & Anr. Vs. Union of India & Ors., (2019) 10 SCC 229; Delhi Development Authority Vs. Godfrey Phillips (I) Ltd. & Ors., Civil Appeal No. 3073 of 2022 and the subsequent decision in which the aforesaid two decisions have been relied upon.

3. Learned counsel appearing on behalf of the respondent - original writ petitioner though is not disputing that the original writ petitioner was the subsequent purchaser and purchased the land subsequent to the acquisition proceedings. However, he has submitted that the decision of this Court in the case of Shiv Kumar & Anr. (supra) shall not be applicable inasmuch as in that case, the original writ petitioner had no title and he claimed the title on the basis of the general power of attorney. It is submitted that at the relevant time, the decision of this Court in the case of Government (NCT of Delhi) Vs. Manav Dharam Trust and Anr., (2017) 6 SCC 751 was on the point, which came to be relied upon by the High Court.

4. We have heard the learned counsel appearing for the respective parties.

5. It is not in dispute that the original writ petitioner is the subsequent purchaser, who purchased the land in question subsequent to the acquisition proceedings and even after the award was declared. Therefore, being a subsequent purchaser, as observed and held by this Court in catena of decisions, more particularly, in the case of Shiv Kumar & Anr. (supra) and Godfrey Phillips (I) Ltd. & Ors. (supra) and other subsequent decisions, subsequent purchaser has no locus to challenge the lapsing of the acquisition.

5.1 The submission on behalf of the respondent that the decision of this Court in the case of Shiv Kumar & Anr. (supra) shall not be applicable as in that case, the original writ petitioner claimed the title on the basis of a general power of attorney and in the present case, the subsequent purchaser purchased the property by registered sale deed is concerned, it is required to be noted that the law laid down by this Court in the aforesaid decision is that a subsequent purchaser has no locus to challenge the acquisition. In the case of Godfrey Phillips (I) Ltd. & Ors. (supra), it is specifically observed and held that the subsequent purchaser

has no locus to pray for lapsing of the acquisition.

5.2 Now, so far as the reliance placed upon the decision of this Court in the case of Manav Dharam Trust and Anr. (supra) is concerned, it is required to be noted that the said decision is held to be per incuriam by this Court in the aforesaid decisions.

5.3 From the impugned judgment and order passed by the High Court, it appears that though before the High Court and so stated in the counter, an objection was raised on maintainability of the writ petition, at the instance of the original writ petitioner - subsequent purchaser, the same has not been dealt with by the High Court. The High Court ought to have dealt with the said aspect. Be that it may, the fact remains that the respondent being a subsequent purchaser had no locus to pray for lapsing of the acquisition as observed and held by this Court in the aforesaid decisions. Therefore, the impugned judgment and order passed by the High Court is unsustainable.

6. In view of the above and for the reasons stated above, both these appeals succeed. The impugned judgment and order passed by the High Court is hereby quashed and set aside. There shall not be any deemed lapse of the acquisition proceedings with respect to the land in question as observed and held by the High Court.

Present appeals are accordingly allowed. However, in the facts and circumstances of the case, there shall be no order as to costs.

Pending applications, if any, also stand disposed of.

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