

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE S. RAVI KUMAR

Appeal Suit No.530 of 2003

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JUDGMENT: (per Hon'ble Sri Justice Ramesh Ranganathan)

This appeal is preferred against the order passed by the Senior Civil Judge, Wanaparthi, Mahaboobnagar District in O.P.No.28 of 2001 dated 29.01.2003.

On the subject land, of an extent of Ac.0.34 guntas in Survey No.310/2 of Rangapur Village, being acquired by the Land Acquisition Officer-cum-Special Deputy Collector, Gadwal for laying a distributary canal, the market value of the subject land was fixed at Rs.44,981/-. The award passed by the Land Acquisition Officer for acquisition of the subject land in Survey No.310/2 records that the subject land is service inam land. As there existed a dispute regarding title over the subject land, the dispute was referred to the Civil Court under Sections 30 and 31 of the Land Acquisition Act for adjudication of title and apportionment of compensation.

Before the Court below, the appellant herein examined himself as RW.3 and marked Ex.R-3 which is a copy of the Sethwar for the year 1347 Fasli (1938). The Sethwar records the temple as the Kathedar. On behalf of the respondents herein, RWs.1 and 2 were examined and a copy of the tenancy final records issued by the Mandal Revenue Officer was marked as Ex.R1, and a copy of the Kasra Pahani for the year 1954-55 was marked as Ex.R2. Relying on the provisions of the A.P. (T.A) Tenancy and Agricultural Lands Act, 1950, the reference court recorded a finding that the respondents herein were the protected tenants of the subject land. While granting 40% of the compensation to the appellant-temple, the Court below apportioned 60% of the compensation in favour of the protected tenants.

Before us Sri K.Ashok Reddy, Learned Counsel for the appellant in A.S.No.530 of 2003, would submit that, in the award passed by the Land Acquisition Officer, the subject land is classified as service inam land; Section 102 of the Tenancy Act makes the Act inapplicable to service inam lands; and, consequently,

no compensation could have been apportioned in favour of the protected tenants whose rights, are referable only to the provisions of the Tenancy Act.

On the other hand, Sri S.Venkateswara Reddy, Learned Counsel for the respondents-tenants, would draw attention of this Court to Ex.R2 the Kasra Pahani for the year 1954-55 wherein the name of the temple is shown as the pattadar and the names of the respondents are shown as the tenants. Learned Counsel would also refer to Ex.R1, the certified copy of the tenancy final records, wherein also the names of the respondents are recorded as the tenants, to submit that these records clearly show that the subject land is patta land; consequently, the provisions of the Tenancy Act would apply; and the Court below was justified in apportioning 60% of the compensation to the respondents as they were protected tenants.

The Court below proceeded on the premise that the subject land was patta land for, if it had held the subject land to be service inam land, then, in view of Section 102[c] of the Tenancy Act, the provisions of the Tenancy Act would have no application thereto; and any rights, which the respondents may have as protected tenants under the Act, would not result in their being granted any portion of the compensation awarded by the Land Acquisition Officer. It is only if the subject land is held to be patta land, would a protected tenant be entitled to receive 60% of the compensation awarded with respect to such land.

The Court below has failed to deal with these aspects, and no finding has been recorded by the Court below with regards the classification of the land, and whether it is service inam land or patta land. We consider it appropriate, therefore, to set aside the order under appeal, and remand the matter to the Court below for its adjudication afresh in accordance with law. As the appeal relates to the year 2003, and the O.P is of the year 2001, we request the Court below to pass orders afresh in the O.P. with utmost expedition, preferably within a period of four months from the date of receipt of a copy of this Judgment. We make it clear that we have not expressed any opinion on merits or regarding the classification of the land; and the Court below shall decide the O.P. on its merits without being influenced by any of the observations made in this Judgment.

The Appeal Suit is, accordingly, disposed of. Miscellaneous Petitions pending, if any, shall also stand disposed of. No costs.

RAMESH RANGANATHAN, J

S. RAVI KUMAR, J

Date:09.09.2015.

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