

**THE HON'BLE SRI JUSTICE K.C.BHANU
AND
THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI**

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A.S.No.2860 OF 2004

JUDGMENT:- (per Hon'ble Sri Justice K.C.Bhanu)

This appeal, under Section 54 of the Land Acquisition Act, 1894 (for short, 'the Act') is filed challenging the order and decree, dated 21.01.2004, in Original Petition No.9 of 1996 on the file of the Senior Civil Judge, Vikarabad, Ranga Reddy District.

2. For the sake of convenience, the parties are hereinafter referred to as they are arrayed before the reference Court.

3. The Land Acquisition Officer (for short, "L.A.O"), who is the Revenue Divisional Officer of Chevella Division, vide Award proceedings No.1/2108/88, dated 8.9.1995, acquired an extent of Ac.7.37 guntas of land in Survey No.39 of Allapur Village, Chevella Mandal, Ranga Reddy District among other lands in other survey numbers for restoration of Sundaramma Cheruvu, and fixed the market value and awarded the compensation. The total compensation that was awarded was Rs.1,35,180/- for Ac.7.37 guntas of land in Sy.No.39. As per the revenue record, the L.A.O. found one Dammi Balaiah (father of claimant Nos.1 and 2) as pattadar, and claimant No.3 and husband of claimant No.4 as the occupiers. During the pendency of proceedings, claimant No.5 – Badrunisa Begum filed a protest petition claiming that she was the owner of the property and she was entitled to the entire compensation whereas claimant Nos.1 to 4 were not entitled to any compensation. In view of the rival claims from claimant Nos.1 to 5, the L.A.O. felt that there was a title dispute and therefore, it was proper to refer the matter to the Court below under Section 30 of the Act.

After the reference was made to the Court of Senior Civil Judge at Vikarabad, Ranga Reddy District, claimant No.1 died and on that, his wives were brought on record as claimant Nos.6 and 7. Claimant No.5 also died during the pendency of the reference and on that, her daughter was brought on record as claimant No.8. Claimant No.5 is having two sons and according to claimant No.8, her brothers are residing in America and they have orally gifted the land in Sy.No.39 to her and therefore, she alone is the legal representative of her mother to receive the compensation amount.

4. On behalf of claimant No.8, P.W.1 was examined and Exs.A-1 to A-6 and A-13 were got marked. On behalf of claimant Nos.2, 6 and 7, P.W.2 was examined and Exs.A-7 to A-10 were got marked. On behalf of claimant Nos.3 and 4, P.W.3 was examined and Exs.A-11 and A-12 were got marked. On behalf of the respondent, neither oral evidence was adduced nor documents were marked.

5. The reference Court, after considering the evidence on record, answered the reference to the effect that claimant No.8 is entitled to 40% of the compensation and claimant Nos.2, 6 and 7 together are entitled to 60% of the compensation deposited before that Court. Challenging the same, the present appeal is filed by claimant No.8.

6. Now the point for consideration in this appeal is:
“Whether the appellant/claimant No.8 is entitled for enhancement of compensation as prayed for or not?”

7. **POINT:** The facts are not in dispute. The question involved in the appeal is as to who are entitled to the compensation amount? Deceased claimant No.5 surrendered an extent of Ac.7.37 guntas in

Survey No.39/2, as she was declared surplus holder as held by the Land Reforms Tribunal by its order, dated 16.10.1978. Pursuant thereto, claimant No.5 surrendered the land to the Government and the same was accepted. The concerned revenue authorities have taken the possession of the subject land on 19.06.1979. Thereafter, the Government granted provisional pattas to an extent of Ac.3.76 cents each to claimant No.3 and the husband of claimant No.4. Claimant Nos.1 and 2, who are the protected tenants, said to have surrendered Ac.7.37 guntas in Survey No.39/2. Thereafter, claimant No.5 filed an appeal before the appellate authority i.e., Land Reforms Appellate Tribunal challenging the order, dated 16.10.1978. The appellant Tribunal, by its judgment in I.A.No.307 of 1994, dated 2.12.1995, allowed the appeal and remanded the matter back to the Tribunal for fresh disposal. Thereupon, an order, dated 27.07.1996, was passed. The holding of deceased claimant No.5 was recomputed and it was ordered to return certain extents of lands including the land in Survey No.39/2.

8. The reference Court has not adverted to the question of law as to whether who are the persons entitled for the compensation amount. There is no adjudication with regard to the entitlement of compensation by claimant Nos.3 and 4. Similarly, to what extent order passed by the Land Reforms Tribunal on 27.7.1996 can be taken into consideration is not answered. Sub-rules (6) and (7) of Rule 10-A of the Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Rules, 1974 have not been considered by the reference Court. What is the effect of provisional pattas granted in favour of claimant No.3 and the husband of claimant No.4, whether the tenant and the land holder surrendered the land in question and if they had surrendered the land, what rights would flow to the parties when the excess surrendered land has been assigned to some third parties? These aspects have not been dealt with, by the reference Court. Hence, the impugned

9. The appeal is, accordingly, allowed and remanded. There shall be no order as to costs. Miscellaneous Petitions, if any, pending in this appeal shall stand closed.

JUSTICE M.SEETHARAMA MURTI

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DATE: 12.02.2015

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