

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

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CIVIL MISCELLANEOUS APPEAL No.1224 of 2008

JUDGMENT:-

This Civil Miscellaneous Appeal under Order XLIII Rule 1 of the Code of Civil Procedure, 1908 ('the Code', for brevity) by the appellants/claimants 1 to 5 in LAOP.No.57 of 1990 is directed against the order dated 31.08.2004 of the learned Senior Civil Judge, Gudur passed in I.A.No.16 of 1998 in the said OP filed under Order IX Rule 9 read with Section 151 of the Code requesting to restore the aforementioned OP to the file.

2. I have heard the submissions of the learned counsel for the appellants/claimants 1 to 5 ('the claimants 1 to 5', for brevity) and the learned Government Pleader appearing for the sole respondent. I have perused the material record.

3. The core facts, which lead to filing of this appeal, in brief, are as follows:

The lands of the claimants were acquired by the Government for the purpose of Kandaleru Reservoir under Telugu Ganga Project at Thamancherla Village. The claimants had settled their claims before the Lok Adalat. However, their contention is that they have settled their claims before the Lok Adalat only in regard to the land and not in regard to the Wells, Structures, Lemon Trees and other Trees situated in that land and that since they have not settled their claim in regard to the same before the Lok Adalat, they are entitled to prosecute their claim before the Civil Court by seeking restoration of the L.A.O.P. to its original number on the file of the Senior Civil Judge's Court, Gudur. Alleging so, they had filed an application under Order IX Rule 9 read with Section 151 of the Code before the Court below.

3.2 The learned Assistant Government Pleader reported no counter in that application.

3.3 On merits, the Court below had dismissed the said application. Aggrieved of the same, the claimants 1 to 5 are before this Court.

4. The learned counsel for the claimants 1 to 5 would contend that the claimants were displaced on account of the acquisition of their entire land and that the claimants are now settled at various places away from the place where the acquired lands were situated and that when the matter was settled before the Lok Adalat, the compensation awarded in the settlement was confined only to the lands and that the claimants did not receive any compensation towards the values of the Wells, Structures, Lemon Trees and other Trees situated in the lands acquired by the Government and that, therefore, they were advised to file an application under Order IX Rule 9 of the code before the civil Court to restore L.A.O.P.No.57 of 1990 to file and that accordingly they had filed an application since the compensation was not received in respect of the Wells, Structures, Lemon and other trees situated in the lands acquire and that the Court below, in the facts and circumstances, ought to have restored the OP to its original number by allowing the application and ought to have enquired into the matter and awarded compensation towards the Wells, Structures, Lemon and other trees situated in the lands so acquired, but the Court below, in spite of the Government reporting no counter, had erroneously dismissed the application for restoration of the OP to its original number.

5 . The learned Government Pleader appearing for the sole respondent, while supporting the impugned order of the Court below, submits that when once the claimants have settled the matter before the Lok Adalat, the said award of the Lok Adalat becomes final and it takes the form of a decree of the civil Court and is executable and therefore, the OP, which was disposed of by virtue of the award of the Lok Adalat, cannot be restored back to file that too on an application filed under Order IX Rule 9 of the Code and that the said provision of law has no application to the case of the claimants.

6 .I have perused the affidavit filed in support of the I.A.No.16 of 1998 in L.A.O.P.No.57 of 1990 and also the order impugned. The facts are not in dispute. On acquisition of the lands of the claimants for the purpose of Kandaleru Reservoir under Telugu Ganga Project at Thamancherla Village, the matter was referred to the civil Court under Section 18 of the Land Acquisition Act and thereafter, the civil Court had referred the matter to the Lok Adalat and before the Lok Adalat, the matter was settled and an award was passed. However, the claimants would *inter alia* contend that the settlement arrived at before the Lok Adalat was only in respect of the compensation payable for the lands but, not in respect of the Wells, Structures, Lemon and other trees situated in the lands so acquired and that they were, at that time, not properly advised and that therefore, they are entitled to claim further compensation in the L.A.O.P. as the award of the Lok Adalat is only in respect of the lands but not in respect of Wells, Structures, Lemon and other trees situated in the said lands.

7. As rightly contended by the learned Government Pleader appearing for the sole respondent, the law is well settled that once the matter is settled before the Lok Adalat and an award was passed, the matter cannot be re-entertained by the civil Court and if the parties are aggrieved of the award of the Lok Adalat, the only remedy open to them is to invoke the writ jurisdiction of this Court under Article 226 of the Constitution of India and therefore, the application under Order IX Rule 9 of the Code filed before the Court below is misconceived and is not maintainable, in the well-considered view of this Court.

8. Having regard to the fact that the very application under Order IX Rule 9 of the Code is not maintainable before the Court below, it must be held that this Civil Miscellaneous Appeal, which is filed assailing the order passed in the said application, is not maintainable and is liable to be dismissed.

9 .In the result, this Civil Miscellaneous Appeal is dismissed. As desired by the learned counsel for the appellants/claimants 1 to 5, liberty is granted to the appellants/claimants 1 to 5 to pursue the remedies available to them, which the law permits. There shall be no order as to costs.

Miscellaneous petitions pending, if any, in this appeal shall stand dismissed.

M. Seetharama Murthi, J

25th August, 2015

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