

*** HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO**

+ CIVIL REVISION PETITION No.1770 of 2015

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% 09-08-2016

Between:

Bilquis Jahan Begum (died) per L.Rs and four otherspetitioners

Vs.

Mohd. Shahed and three others

.... Respondents

!Counsel for the petitioners : Sri M.V.S.Suresh Kumar

Counsel for the Respondents: -

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>Head Note:

? Cases referred:

1. 2013(4) ALD 178(SC)
2. 2002(9) SCC 426
3. AIR 2007 SC 215
4. (AIR 2003 SC 2302)

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

CIVIL REVISION PETITION No.1770 of 2015

Between:
Bilquis Jahan Begum (died) per L.Rs and four otherspetitioners

Vs.

Mohd. Shahed and three others
..... Respondents

DATE OF JUDGMENT PRONOUNCED: 09.08.2016

SUBMITTED FOR APPROVAL:

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

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|---|--|--------|
| 1 | Whether Reporters of Local newspapers may be allowed to see the Judgments? | Yes/No |
| 2 | Whether the copies of judgment may be marked to Law Reports/Journals | Yes/No |
| 3 | Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? | Yes/No |

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CIVIL REVISION PETITION No.1770 of 2015

ORDER:

The revision petitioners impugning the order dated 20.02.2015 of the learned II Additional Chief Judge, City Civil Court, Hyderabad, in I.A.No.2788 of 2013 in O.P.No.1804 of 2013 permitting to implead the proposed respondents 1 to 3 in Section 18 reference before the Land Acquisition Tribunal made by the Deputy Collector-cum- Land Acquisition Officer within the Municipal Corporation, Hyderabad, from the application for enhancement of

compensation with protest raised by the claimants, who are the revision petitioners.

2. The trial Court observed in allowing the implead petition of the revision respondents 1 to 3 as petitioners covered by the impugned order that particularly from para-6 onwards that as per the Larger Bench expression of this Court in **Repaka Bhyravamurthy v. Muppidi Venkataraju** (2001(5) ALD 815(LB)), a person claiming compensation or apportionment therein is entitled to be impleaded as a party in the reference Court, though he fails to appear before the Land Acquisition Officer. In **Ramji Gupta v. Gopi Krishan Agrawal (D)**^[1], the Apex Court held that a person who has not made an application before the Land Acquisition Officer/Collector, for making a reference under Section 18 or 30 of the Act, 1984, cannot get himself impleaded directly before the reference Court. As per the observations of the Larger Bench of this Court, the petition is allowed impleading the proposed petitioners as petitioners 6 to 8 in the L.A.O.P.

3. It is now impugning, with the contentions in the revision vis-à-vis oral submissions by Sri M.V.S.Suresh Kumar, learned counsel for the petitioners that once the Apex Court laid down the law of the land under Article 141 of the Constitution of India, irrespective of the Larger Bench expression of this Court in **Repaka Bhyravamurthy (supra)** not fallen for consideration, it is a binding precedent apart from what the Larger Bench considered of **Ajjam Linganna v. Land Acquisition Officer**^[2] was even referred by the Apex Court leave apart some other earlier expressions including **Shyamali Das vs. Illa Chowdhry**^[3], which also say the Land Acquisition Act is a complete Code in itself, which provides remedies not only to those whose lands have been acquired but also to those who claim awarded amount or any apportionment thereof and derives its jurisdiction to the trial Court from the Order of reference, to which he is bound to answer and the jurisdiction is to determine adequacy and otherwise of the amount of compensation paid under the award made by the Collector and thus it is not within his domain to entertain any application of *pro interesse suo* or in the nature thereof.

4. It was held clearly by the Apex Court in **Ramji Gupta** (supra) that it is evident from the above expression including **Prayag Upnivesh Awas Evam Nirman Sahkari Samiti Ltd. V. Allahabad Vikas Pradhikaran**^[4] that reference Courts got jurisdiction only if the matter is

referred to it either under Section 18 or Section 30 of the Land Acquisition Act by the Land Acquisition Officer and the Civil Court got jurisdiction and authority to decide the objections referred to it. However, the reference Court cannot widen the scope of its jurisdiction or decide matters which are not referred to it. By referring to other expressions of the Apex Court in **Parmatha Nath Malik Bahadur v. Secretary of State** (AIR 1930 PC 64), **Mohammed Hasnuddin v. The State of Maharashtra** (AIR 1979 SC 404), and **Kothamasu Kanakarathamma v. State of Andhra Pradesh** (AIR 1965 SC 304) also in this regard and within its scope, it was ultimately held in the expression in **Ramji Gupta** (supra) in paras 31 to 33 that, the person who is not made an application before the Land Acquisition Officer for making a reference under Section 18 or 30 of the Act cannot get himself impleaded directly before the reference Court. It summarized the legal issues involved in para 33, which reads as follows:

- (i) An application under Order IX Rule 13 CPC cannot be filed by a person who was not initially a party to the proceedings;
- (ii) Inherent powers under Section 151 CPC can be exercised by the Court to redress only such a grievance, for which no remedy is provided for under the CPC;
- (iii) In the event that an order has been obtained from the Court by playing fraud upon it, it is always open to the Court to recall the said order on the application of the person aggrieved, and such power can also be exercised by the appellate court;
- (iv) Where the fraud has been committed upon a party, the court cannot investigate such a factual issue, and in such an eventuality, a party has the right to get the said judgment or order set aside, by filing an independent suit.
- (v) **A person aggrieved may maintain an application before the Land Acquisition Collector for reference under [Section 18](#) or 30 of the Act, 1894, but cannot make an application for impleadment or apportionment before the Reference Court.**

5. No doubt, the Larger Bench expression further speaks particularly from para 51 that, though a person may not be entitled to be impleaded as a party only for the purpose of enhancement of compensation, but if any question arises which touches the issue of his entitlement or apportionment to the amount of compensation that may be considered by reason of an application under Order 1 Rule 10 CPC.

6. What is there from answered by the Apex Court is in saying, unless there is an application under Section 30 to decide the dispute as to the entitlement, the question of impleadment by a stranger to the reference does not arise. This aspect did not properly considered by the lower Court. It is needless to say, if at all any such application is made, remedy is left open for Section 30 reference, irrespective of no Section 18 reference made for enhancement. Needless to say receiving compensation on protest for enhancement if at

all done, any benefit enured thereby to those persons in such a way can be adjudicated either by maintaining a separate suit or by making an application under Section 30 for reference.

7. Accordingly, the Civil Revision Petition is allowed setting aside the order in I.A.No.2788 of 2013 in O.P.No.1804 of 2013 passed by the learned II Additional Chief Judge, City Civil Court, Hyderabad and consequently the implead application in I.A.No.2788 of 2013 is dismissed. There is no order as to costs.

Dr. B. SIVA SANKARA RAO, J

Date:09-08-2016

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Note:

L.R.copy to be marked -yes

[\[1\]](#) 2013(4) ALD 178(SC)
[\[2\]](#) 2002(9) SCC 426
[\[3\]](#) AIR 2007 SC 215
[\[4\]](#) (AIR 2003 SC 2302)