

THE HON'BLE SRI JUSTICE VILAS V. AFZULPURKAR

CIVIL REVISION PETITION No.5772 of 2015

ORDER:

Petitioner, who is a third party to the acquisition proceedings, filed an application seeking impleadment in L.A.O.P.No.32 of 2005, before the learned Principal Senior Civil Judge, Tirupati, on the basis of liberty granted by this Court vide order, dated 30.11.2015 passed in Writ Petition No.38146 of 2015. By order, dated 11.12.2015, the trial Court returned the said application as not maintainable in view of the decision of the Supreme Court reported in **Ram Prakash Agarwal and another v. Gopi Krishan and others**^[1]. The said order is questioned in this Civil Revision Petition.

Learned counsel for the petitioner states that so far as patta rights are concerned, they are at the moment sub judice in Writ Petition No.10672 of 2015 wherein this Court passed interim order, dated 22.04.2015, which reads as follows:

“Status quo obtaining as on today with regard to the orders passed in all respects shall be maintained.
Since the matter requires final disposal, list the matter
“For Final hearing” after filing of counters.”

Learned counsel therefore states that though the respondents are not filing counter-affidavits in the said Writ Petition, they are pressing for disposal of L.A.O.P. taking advantage of the fact that the petitioner is not a party there. Hence, the petitioner has filed application for impleadment. In support of his contention, learned counsel for the petitioner placed reliance upon the decision of Full Bench of this Court reported in **Repaka Bhyravamurthy v. Muppidi Venkataraju**^[2].

Per contra, learned counsel for the respondents relied upon the decision of the Supreme Court reported in **Ram Prakash Agarwal's case (1 supra)** which clearly shows that third party's application for impleadment is impermissible when he is not a party to the land acquisition proceedings at any stage.

In my view, the legal position as settled by the decision of the Supreme Court referred to 1 supra is rightly appreciated by the Court below. The Supreme Court specifically held in paragraph 27 and 28.5 as follows:

“27. It is evident from the above, that a person who has not made an application before the Land Acquisition Collector, for making a reference under Section 18 or 30 of the 1894 Act, cannot get himself impleaded directly before the Reference Court.

28.5. A person aggrieved may maintain an application before the Land Acquisition Collector for reference under Section 18 or 30 of the 1894 Act, but cannot make an application for impleadment or apportionment before the Reference Court.”

The above legal position completely answers the contentions of the petitioner’s counsel as the decision of the Full Bench of this Court cannot prevail over the decision of the Supreme Court.

The Civil Revision Petition is accordingly dismissed.

Miscellaneous Petitions, if any pending in this Civil Revision Petition shall stand closed. No order as to costs.

VILAS V.AFZULPURKAR, J

29th JANUARY, 2016.

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[\[1\]](#) (2013) 11 Supreme Court Cases 296

[\[2\]](#) (2001) 5 ALD 815