

* HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

+ WRIT PETITION Nos.3094 AND 196 OF 2017

% 20.07.2017

W.P. No.3094 of 2017

#G.Veeraiah & another

...Petitioners

VERSUS

\$ The State of Telangana,
Rep. by its Principal Secretary,
Revenue Department, Secretariat,
Hyderabad, Telangana & 2 others

...Respondents

W.P. No.196 of 2017

Charminar Papers Limited
rep. by its Managing Director T.V.Rao

...Petitioner

VERSUS

\$ The State of Telangana,
Rep. by its Principal Secretary to Government,
Revenue Department, Secretariat Buildings,
Saifabad, Telangana & 2 others

...Respondents

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> HEAD NOTE:

!Counsel for Petitioners in W.P. No.3094 of 2017: Sri M.V.Swamy

^Counsel for Petitioner in W.P. No.196 of 2017 &
counsel for Respondent No3 in W.P. No.3094 of 2017: Sri P.S. Rajasekhar

^Counsel for Respondents 1 & 2 in W.P. No.3094 of 2017 &
Counsel for Respondents in W.P. No.196 of 2017 : G.P for Land Acquisition

? Cases referred

1. 2001 (5) ALD 815 (LB)
2. 2013 (4) ALD 178 SC
3. 2002 (9) SCC 426
4. AIR 2007 SC 215
5. AIR 2003 SC 2302

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

WRIT PETITION Nos.3094 AND 196 OF 2017

COMMON ORDER:

Writ Petition No.3094 of 2017 is filed by G.Veeraiah and G.Yadaiah, who are sons of Laxmaiah, against respondents viz., 1)Principal Secretary, Revenue Department, Secretariat, Hyderabad, 2)The Special Deputy Collector, Land Acquisition Officer, Outer Ring Road, Unit-IV, Tarnaka, Hyderabad and 3) M/s.Charminar Paper Limited, represented by its Managing Director, who is no other than the petitioner in W.P. No.196 of 2017, for the following relief:

“to issue a writ order or direction more particularly one in the nature of writ of Mandamus declaring the action of the respondents to call for the records and thereafter direct the respondent to send the petitioner case to the concerned Civil Judge for declaration of title, payment of compensation including enhance of payment of compensation etc, and pass such other order or orders as this Hon'ble Court may deems fit and proper in the circumstances of the case.”

2) Heard learned counsel for petitioners, learned Government Pleader for Land Acquisition and Sri P.S.Rajasekhar, learned counsel appearing for respondent No.3 in W.P. No.3094 of 2017 and petitioner in W.P. No.196 of 2017 and perused the prayer in both the writ petitions with supporting affidavits.

3) It is the supporting affidavit averment that behind back, even their father Laxmaiah was the owner of agricultural land to the extent of Ac.0.35 gts of S.No.117/ee, which is part of S.No.117 situated at Muthangi Village, Patancheru Mandal,

Sanga Reddy District, that the 3rd respondent—M/s Charminar Paper Limited (for short 'M/s.Charminar') purchased Ac.0.10 gts of land under the registered sale deed bearing document No.675 of 1979, dated 17.05.1979 but claimed compensation for the entire extent of Ac.0.35 gts of land acquired by the 1st respondent, through 2nd respondent—Special Deputy Collector, LAO and that they are entitled to the compensation for the said Ac.0.25 gts of land and what they sold to M/s.Charminar is only Ac.0.10 cents and even they filed an application for their impleadment under Section 30 of the Land Acquisition Act, 1894 (for short 'the Act') Act read with Order I Rule 10 read with Section 151 C.P.C.;, that was dismissed by the reference Court, and thereby impugning the same, they filed the writ petition, including with a direction not to disburse the compensation amount for the entire extent of Ac.0.35 gts to M/s.Charminar.

4) In fact, as can be seen from the record, the application for impleadment was filed after passing of reference orders under Section 30 of the Act by the reference Court and not even during its pendency, leave about, even Larger Bench expression of this Court in **Repaka Bhyravamurthy vs Mupidi Venkataraju**¹ allows for impleadment in a pending reference under Sections 18 and 30 of the Act, the subsequent expression of the Apex Court in **Ramji Gupta vs Gopi Krishan Agarwal**² categorically held that a person, who has not made an application before the Land Acquisition Officer/ Collector, for making a reference under Sections 18 or 30 of the Act, 1894 cannot get

¹ 2001 (5) ALD 815 (LB)

² 2013 (4) ALD 178 SC

himself impleaded directly before the reference Court, leave about the earlier expression of the Apex Court in ***Ajjam Linganna vs Land Acquisition Officer***³, ***Shyamali Das vs Illa Chowdary***⁴, besides ***Prayag Upnivesh Awas Evam Nirman Sahkari Samiti Ltd. Vs Allahabad Vikas Pradhikaran***⁵ that were referred in Ramji Gupta (2 supra), in its conclusion, saying in so, the writ petition itself is not maintainable, keeping in mind the dismissal of the implead application after disposal of reference under Section 30 of the Act by the Civil Court but for the remedy, if at all, is to maintain a civil suit. Leave about, the very execution of sale deed in the year 1979, referred supra, speaks that out of Ac.0.35 gts, land of Ac.0.25 gts was already secured by the Government and the remaining Ac.0.10 gts only was sold to M/s.Charminar.

5) W.P. No.196 of 2017 is filed by the respondent No.3 in W.P. No.3094 of 2017 for the following relief:

“to issue a writ, order or direction more particularly a writ in the nature of Writ of Mandamus

- a) declaring the inaction of the respondent No.3 in referring the application of the petitioner dated 12.12.2007 to the civil Court u/s 18 of the Land Acquisition Act, 1894 as arbitrary and illegal and**
- b) direct the respondent No.3 to refer application of the petitioner dt.12.12.2007 to the Civil Court u/s 18 of the Land Acquisition Act, 1894 forthwith and pass such other order or orders as the Hon’ble Court may deem it fit and proper in the facts and circumstances of the case.”**

6) It is the averment in the supporting affidavit of the writ petition that despite application filed for reference,

³ 2002 (9) SCC 426

⁴ AIR 2007 SC 215

⁵ AIR 2003 SC 2302

impugning the quantum of compensation in seeking enhancement, the respondents are not referring the said application filed under Section 18 of the Act to the Civil Court in the counter filed by respondents 2 and 3, that there is no dispute of the application for reference is not within time and hence not entitled for reference, but for simply saying the reference is under process, but not even referred.

7) Accordingly and in the result,

i) W.P. No.3094 of 2007 is disposed of giving liberty to the petitioners to approach the Civil Court concerned by maintaining a civil suit for declaration of title and entitlement of apportionment of compensation, unless the sale deed recitals shown incorrect;

ii) W.P. No.196 of 2017 is disposed of directing the respondents to dispose of the application dt.12.12.2007 made by the petitioner to refer it to the Civil Court under Section 18 of the Act.

iii) No order as to costs.

8) Consequently, miscellaneous petitions pending, if any in these writ petitions, shall stand closed.

JUSTICE Dr. B.SIVA SANKARA RAO

Date:20.07.2017
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HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

WRIT PETITION Nos.3094 AND 196 OF 2017



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