

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE MS. JUSTICE J. UMA DEVI

W.A.NO. 5 of 2004

JUDGMENT:

(Per Hon'ble the Acting Chief Justice Ramesh Ranganathan)

This appeal, under Clause 15 of the Letters Patent, is preferred against the order of the learned Single Judge in W.P.No. 24418 of 2003 dated 20.11.2003. The appellants herein filed the Writ Petition to declare the action of the respondents, in referring the application filed by respondents 3 to 6 in the writ petition to the Civil Court, as illegal, arbitrary, and contrary to the provisions of the Land Acquisition Act, 1894 (for short "the Act"). A consequential direction was sought to set aside the reference letter dated 11.9.2003 of the 1st respondent, and for a further direction to the 1st respondent to pay the compensation amount as per the Award proceedings dated 6.11.2002.

The dispute raised in the writ petition is with regards the entitlement of the appellants-writ petitioners on the one hand, and respondents 3 to 6 on the other, for payment of compensation. The appellants claimed that their rights had already been established pursuant to the decree obtained by them before the Civil Court.

In the order under appeal the learned Single Judge observed that only the 5th respondent had claimed compensation by filing an objection-petition; the other respondents had not participated in the award enquiry; they were, therefore, entitled to seek a reference under Section 30 of the Act; in view thereof, the reference made by the

Collector, after rejecting the claim of the respondents on the application made by respondents 3 to 6, cannot be faulted; and it was always open to the writ petitioners to appear before the Civil Court and participate in the enquiry claiming the compensation awarded by the District Collector.

In the light of the dispute raised by the unofficial respondents regarding the entitlement of the appellants for payment of compensation, the Land Acquisition Officer had rightly referred the matter to the Civil Court under Section 31 of the Act. As questions, including the title of the petitioners and the unofficial respondents over the subject land, are required to be examined in proceedings under Section 31 of the Act wherein evidence can be let in by parties on either side, it would be wholly inappropriate for this Court, in judicial review proceedings under Article 226 of the Constitution of India, to take upon itself the task of determining whether the appellants or the unofficial respondents have title over the subject land.

We are satisfied that the learned Single Judge was justified in upholding the action of the District Collector in referring the dispute to the Civil Court under Section 31 of the Act. In an intra-court appeal, under Clause 15 of the Letters Patent, interference is justified only if the order under appeal suffers from a patent illegality. We find no such infirmity in the order under appeal.

The Writ Appeal fails and is, accordingly, dismissed.
Miscellaneous applications, if any, pending, shall stand closed. No
order as to costs.

RAMESH RANGANATHAN, ACJ

J. UMA DEVI, J

Dt.14.9.2017
KR/GSN

