

**THE HON'BLE SRI JUSTICE P.NAVEEN RAO**

**C.R.P.No.979 of 2004**

**Date: 14.12.2017**

Between:

V.Madhava Rao S/o.Late Ramaiah,  
Aged about 34 years,  
R/o.Pakabanda Bazar,  
Khammam town and district ... Petitioner

And

The L.A.O., Special Deputy Collector,  
IPT & Railways, Khammam  
and eight others ...  
Respondents

Counsel for the Petitioner : Mr.P.Veera Reddy

Counsel for the Respondents : Mr.T.S.Anand

**The Court made the following:**

**Order :**

This revision is preferred against the decision of Senior Civil Judge, Khammam, in I.A.No.878 of 2001 in I.A.O.P.No.549 of 1987.

2. Heard Mr.C.Praveen, representing learned counsel for the petitioner and Mr.K.Srinivas Murthy, representing learned counsel for the respondents. Briefly noted, the facts are as under:

3. Land Acquisition proceedings were initiated under the Repealed Land Acquisition Act, for acquiring land to an extent of acre 1.29 in Survey No.135/2 and acres 0.26 in Survey No.340/2 in Khammam town. According to the petitioner, land in Survey No.135/2 belongs to late V.Madhava Rao and land in Survey No.340/2 belongs to late Kollu Kotaiah. On behalf of both persons, Advocate by name Kilaru Khader Baba, represented before the Land Acquisition Officer and the Land Acquisition Officer passed common order on the said properties on 23.09.1986 bearing Award No.29/86-87. The Award reflected the names of Kollu Kotaiah and V.Madhava Rao, as in possession of the subject properties. Not satisfied with the amount of compensation determined, reference was sought and accordingly, under Section 18 of the Repealed Act, reference was made to the Court of Senior Civil Judge, Khammam and it was numbered as I.A.O.P.No.549 of 1987. Accepting the claim for enhancement of compensation, order was passed by the Reference Court. Alleging non-compliance of the order and that the amount was not deposited, the petitioner filed E.P.No.94 of 1999 in the said petition. The compensation amount was deposited by the Government. Cheque petition was filed to receive the amount and at that stage, Kollu Kotaiah contested that the petitioner is not entitled to receive that amount. Accepting the objection, the E.A. was dismissed.

4. The petitioner then filed I.A.No.878 of 2001, praying the reference court to apportion the shares of V.Madhava Rao and Kollu Kotaiah respectively (both of them since died and are being represented by legal representatives) and permission to withdraw the amounts of the compensation apportioned to the petitioner. The claim of the petitioner was contested by stating that by a registered sale deed executed in the year 1982, the property was sold to Kollu Kotaiah. The sale deed clearly indicates that in the event of compensation being paid by the Government on the said property, Sri Kollu Kotaiah is entitled to receive the compensation and that V.Madhava Rao has no claim to receive compensation. This document was pressed into service, to contend that the petitioner is not entitled to receive compensation awarded by the Land Acquisition Officer and enhanced by the reference court and that, Kollu Kotaiah alone is entitled to receive the compensation. Accepting the said plea, the reference court dismissed the I.A., which is challenged in this Revision.

5. The learned counsel for the petitioner contends that at the stage of apportionment of compensation, the Court cannot go into the claim of the entitlement and, therefore, the order under revision is liable to be set aside on that ground alone. In support of the said contention, he has placed reliance on the decision of this Court in N.CHANDRAMOULESWARA REDDY VS. SPECIAL DEPUTY COLLECTOR (LAND ACQUISITION), SRISAILAM PROJECT, ATMAKUR, KURNOOL DISTRICT<sup>1</sup>. The learned counsel further contends that the Award has become final and that the O.P. order has also become final. In the Award, as well as in the O.P. order, entitlement of V.Madhava Rao and Kollu Kotaiah respectively, was decided and, therefore, at the stage of

---

<sup>1</sup> 2001 (3) ALT 556

apportionment of compensation, the reference court could not have gone into the merits of the entitlement of the petitioner for receiving compensation and that the said decision, therefore, is erroneous and on that ground alone, it is liable to be set aside.

6. Sri K.Srinivas Murthy, counsel for the respondents submits that the document through which property was sold to Kollu Kotaiah, was marked as exhibit B1 and this document clearly discloses that the subject property was already sold to Kollu Kotaiah and the right to receive the compensation was passed on to Kollu Kotaiah, as and when acquisition proceedings are finalized and compensation is determined. He therefore, submits that in terms of the said documents, the claim of the petitioner is not valid and, therefore, the Court below has rightly rejected the claim for apportionment of compensation. He would submit that since petitioner has gone before the reference court, which originally decided the O.P. for apportionment of the compensation, it has rightly decided the claim as not valid and, there is no error in the decision arrived at, warranting interference by this Court.

7. The basic facts noted above, are not in dispute. The only issue for consideration is whether the reference court erred in holding that the petitioner was not entitled to receive compensation as per the amounts determined by the Land Acquisition Officer and incorporated in the Award passed by the Land Acquisition Officer and enhanced by the reference court, which also incorporated the name of V.Madhava Rao as beneficiary of the compensation.

8. It is not in dispute that originally V.Madhava Rao was owner of the subject property and it appears that since his name was reflected in the original records, the land acquisition proceedings reflected his name and,

therefore, V.Madhava Rao also participated in the land acquisition proceedings and thus, his name is reflected in the Award passed by the Land Acquisition Officer. Similarly, when a reference was made, the name of V.Madhava Rao was also reflected before the reference court. However, at the stage of allowing V.Madhava Rao as a party to O.P.No.549 of 1987, the reference court has not gone into the rival claims for compensation and determined only the claim for enhancement of compensation on the land acquired. It is also appropriate to note from the order under challenge that four O.Ps. were considered and were decided together and at that stage, the individual entitlement for apportionment of compensation was not gone into by the reference court.

9. As rightly pointed out by learned counsel for the respondents Sri K.Srinivas Murthy, in the reference under Section 18 of the Land Acquisition Act, the apportionment of compensation or rival claims of compensation, cannot be gone into and what is required to be considered is only with reference to entitlement for enhancement of compensation from the compensation determined by the Land Acquisition Officer. Section 30 of the Land Acquisition Act (repealed) deals with dispute as to apportionment of compensation and Section 31 deals with payment of compensation or deposit of the same in Court. If any person has a claim or dispute over the claims of others, he must raise objection under Section 30. Apparently, no such objection was raised.

10. This aspect need not detain this Court from consideration of the issue involved in this revision, since the original ownership of the property when the land acquisition proceedings were taken up, is not in dispute. Neither the Land Acquisition Officer nor the Reference Court was addressed of the understanding reached between V.Madhava Rao and Kollu Kotaiah, whereunder, V.Madhava Rao sold the property to

Kollu Kotaiah by way of a registered sale deed and he has also incorporated in the said document about the entitlement of Sri Kollu Kotaiah to receive compensation in the event of the government acquiring the property and paying the compensation. Thus, right to receive compensation was given up by Sri V.Madhava Rao and this appears to be on receipt of valuable sale consideration by V.Madhava Rao, on the subject property. Thus, it is not a case of dispute on apportionment of compensation, but a case of entitlement to receive the compensation as determined by the Land Acquisition Officer and enhanced by the reference court. As rightly pointed out by the respondents before the reference court, that in view of the sale deed executed, which was marked as exhibit B1, the right of the petitioner to claim compensation was forfeited and, therefore, the respondents alone are entitled to receive compensation.

11. The judgment relied upon by the petitioner in the case of CHANDRAMOULESWARA REDDY (supra), does not come to the aid of the petitioner. In that case, the execution Court has gone into the entitlement beyond the decree passed. In the instant case, the present order is not passed in the execution proceedings, but is passed in the original O.P. on an application filed by the petitioner.

12. In the facts of this case, I do not see any error in the decision of the Court below, warranting interference. Further, as rightly pointed out by the learned counsel for the respondents, Mr.V.Madhava Rao, the original owner of the property, having sold the property and also specifically authorizing Kollu Kotaiah to receive compensation on the subject property, if and when the government acquires the property, it is not open to the petitioner to contest the claim for apportionment of compensation and to receive compensation. It is unfortunate that though

the issue of compensation is settled long ago, the fruits of enhanced compensation granted as early as on 21.09.1998, are not reaped by the respondents, who are entitled to receive compensation and amounts are being deposited in the Court because of the dispute agitated by the petitioner.

12. In the facts of this case, Civil Revision Petition is dismissed with costs of Rs.500/- to be paid to the respondents.

---

**(P.NAVEEN RAO, J)**

Date: 14<sup>th</sup> December, 2017

msb

