

THE HON'BLE SRI JUSTICE SANJAY KUMAR
CIVIL REVISION PETITION No.2265 OF 2018

ORDER

L.A.O.P.No.823 of 2011 on the file of the learned III Additional District Judge, Ranga Reddy District at L.B.Nagar, was registered under Section 30 of the Land Acquisition Act, 1894 (*hereinafter*, 'the Act of 1894'), upon the reference made by the Special Deputy Collector, L.A. Unit-I, Outer Ring Road Project, under his letter dated 12.12.2010, in relation to acquisition of an extent of Acs.5.34 guntas in Kongara Khurd-B Village of Maheshwaram Mandal, Ranga Reddy District, to decide the title dispute between the named parties, respondents 2 to 6 herein. While so, the petitioners herein filed I.A.No.641 of 2017 in L.A.O.P.No.823 of 2011 under Order 1 Rule 10 CPC seeking to be impleaded. By order dated 08.01.2018, the Reference Court dismissed the I.A. Aggrieved thereby, the petitioners are before this Court under Article 227 of the constitution.

Heard Sri K.Arvind Kumar Agarwal, learned counsel representing M/s. Lawyers and Solicitors, counsel for the petitioners, and Sri Vijay B.Paropkari, learned counsel on caveat for respondents 5 and 6.

Perusal of the order under revision reflects that the GPA holder of the petitioners filed an affidavit before the Reference Court claiming that their father was the absolute owner and possessor of the acquired land and after his death on 23.10.2015, the petitioners were his only surviving heirs. Reference was made to earlier litigation and the petitioners claimed that respondents 2 to 6 herein had no right or title over the acquired land but were claiming the compensation awarded for the said land on the strength of forged documents. The implead petition was contested by respondents 2 to 6 by filing counters. Exs.P.1 to P.16 were marked by the

petitioners before the Reference Court while the respondents marked Exs.R.1 to R.10. No oral evidence was adduced.

Having adverted to the merits of the matter, the Reference Court took note of the dictum of the Supreme Court in RAMJI GUPTA V/ s. GOPI KRISHAN AGRAWAL(D)¹ to the effect that a person who has not made an application before the Land Acquisition officer for reference under Section 30 of the Act of 1894 cannot make an application for impleadment before the Reference Court and dismissed the I.A.

Sri K.Arvind Kumar Agarwal, learned counsel, would state that the aforestated decision of the Supreme Court was rendered in the context of an application made under Order 9 Rule 13 CPC and therefore, the observation referred to *supra* would not be binding. He would rely on the observations made by the Supreme Court earlier in SHARDA DEVI V/ s. STATE OF BIHAR², which read as under:

'34. The scheme of the Act does not attach a similar finality to the award of the Collector on the issue as to the person to whom compensation is payable; in spite of the award by the Collector and even on failure to seek reference, such issue has been left available to be adjudicated upon by any competent forum. '

However, it may be noticed that the aforestated observation does not support the present plea of the petitioners that they are entitled to be impleaded in the proceedings before the Reference Court though they never appeared before the Special Deputy Collector, Land Acquisition, the first respondent. On the other hand, the decision of the Supreme Court in RAMJI GUPTA¹ is squarely on the point. Having considered all the issues

¹ 2013 (4) ALD 178 (SC)

² (2003) 3 SCC 128

arising in the case, the Supreme Court summarized its findings in para 33 of the judgment. Para 33 (v) reads as under:

'33. (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 appointment before the reference Court.'

We are not informed of any later decision deviating from the aforestated legal position.

In the light of this settled legal position, the petitioners cannot seek impleadment before the Reference Court without maintaining an application before the Special Deputy Collector, Land Acquisition. In that view of the matter, the order of the Reference Court holding to this effect and disallowing the plea of the petitioners for impleadment in the reference proceedings under Section 30 of the Act of 1894 does not brook interference.

The Civil Revision Petition is devoid of merit and is accordingly dismissed. Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

SANJAY KUMAR,J

18th JUNE, 2018

PGS