

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CIVIL REVISION PETITION No.2768 of 2017

ORDER:

This civil revision petition is filed by the petitioners/claimant Nos.1 to 3 in L.A.O.P.No.33 of 2002 under Article 227 of Constitution of India for denying the opportunity to cross-examine the witness by the Presiding Officer of the Court by exercising power under Section 165 of the Evidence Act.

It is a case of reference under Sections 30 and 31 of Land Acquisition Act as there is rival claims for apportionment of compensation by the acquisition officer, but during enquiry the Senior Civil Judge, Sompeta summoned Sri M.Venkateswararao, Revenue Divisional Officer, Tekkali and elicited certain facts by putting 23 questions and marked Exs.C.1 to C.7, but rejected the request of the petitioners to cross-examine the witness by exercising power under Section 165 of the Evidence Act.

It is the contention of the petitioners before this Court that Revenue Divisional Officer was inimical to them and he stated something against their claim. Even though the witness was summoned by the Court, an opportunity has to be given to the parties to the L.A.O.P. to cross-examine the witness to elicit anything confining to the facts elicited in his examination-in-chief. Denial of such opportunity would amount to violation of principles of natural justice and requested to give an

opportunity to cross-examine the Revenue Divisional Officer, Tekkali.

During hearing, Sri P.Sri Ram, learned counsel for the petitioners reiterated contentions urged in the revision and requested to afford an opportunity to cross examine the Revenue Divisional Officer, Tekkali.

Sri M.P.Chandra Mouli, learned counsel for the contesting respondents contended that certain terms in tenure laws were not understandable to the Presiding Officer, therefore, the officer exercised power under Order XVI Rules 1 and 2 of C.P.C., summoned the witness and put 23 questions to him and elicited certain answers and recorded the same in question and answer form. When the witness was examined, an opportunity should be given to both parties to cross-examine the witness, but the learned counsel did not dispute the right of the parties to cross-examine the witness summoned by the Court.

Rejection of the request on the ground of power conferred on the Court under Section 165 of the Evidence Act is an error since the power conferred to put certain questions to the witness when the witness appeared in the witness box, but not applicable to the witness, who is summoned by the Court by exercising power under Order XVI Rules 1 and 2 of C.P.C.

However, in view of no objection reported by the learned counsel for the respondents, the petition is ordered permitting both parties to L.A.O.P. to cross-examine the witness i.e. Revenue Divisional Officer, Tekkali, otherwise the questions put

to the witness and answers elicited from the witness cannot be treated as examination-in-chief.

In the result, the civil revision petition is allowed permitting both the parties to L.A.O.P. to cross-examine the witness. No costs.

The miscellaneous petitions pending, if any, shall also stand closed.

JUSTICE M. SATYANARAYANA MURTHY

06.11.2018
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