

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CRP.No.646 of 2018

ORDER:

This Revision is filed challenging the order dt.28.08.2017 in I.A.No.625 of 2017 in L.A.O.P.No.1000 of 2013 of the XIV Additional District Judge, Ranga Reddy District at L.B.Nagar.

2. Petitioners claim to be the children of one Mahesh Chand through his first wife Smt Shanta Bai.

3. Petitioners contend that a Company by name M/s Kohinoor Glass Factory Pvt. Ltd., was incorporated by their paternal grand father; that a portion of the land of the said Company was acquired for metro rail project and an Award was passed on 26.04.2013 in file No.C1/333/2012; that respondents 2 to 8 had made a claim of ownership over the said property before the 1st respondent; that the matter was referred for adjudication of their rights under Section 30 of the Land Acquisition Act, 1894; that petitioners' father, who is representing the 2nd respondent-Company, neglected them and in collusion with the step brothers and sisters denied legitimate share in the joint family property to the petitioners and they had also instituted O.S.No.24 of 2005 before the IX Additional Chief Judge, City Civil Court, Hyderabad against

their father, who is representing the 2nd respondent-Company; and therefore they ought to be impleaded in the O.P. since they are necessary and proper parties.

4. Counter affidavit was filed on behalf of respondents 2 to 8 by 3rd respondent opposing the impleadment of the petitioners.

5. By order dt.28.08.2017, the Court below dismissed the said application on the ground that petitioners did not file any record in proof of their allegation that they are the sons of Mahesh Chand through his first wife Smt Shanta Bai and there is no *prima facie* evidence to prove that the petitioners have not made a claim over the subject matter of the property or compensation.

6. Assailing the same, this Revision is filed.

7. Counsel for the petitioners contended that a Larger Bench of this Court in ***Repaka Bhyravamurthy And Another vs Muppidi Venkataraju And Others***¹ has held that application under Order I Rule 10 CPC can be entertained in proceedings under Section 30 of the Land Acquisition Act, 1894 even if they did not appear before the

¹ 2001(5)ALD 815

Land Acquisition Officer and the Court below erred in dismissed their application.

8. Sri M.V.Raja Ram, Counsel appearing for 2nd respondent states that no notice of filing of this application had been given to the 2nd respondent in the Court below and so no counter affidavit was filed by them in the Court below. Since the property which was acquired, belongs to the 2nd respondent-Company and not to the father of the petitioners in his individual capacity, petitioners cannot be impleaded.

9. In **Repaka Bhyravamurthy's** case(1 *supra*) Larger Bench of this Court held that:

“34. In a reference under [Section 30](#), not only the question of title, but also the status of the parties may be involved. Order 1, Rule 10 confers a wide power upon the Court. A party may be added by the Court if he satisfies the provisions specified therein or the Court may, at any stage of the proceedings, *suo motu* add a party or may strike off the name of a party in the interest of justice. Although normally a plaintiff has more say in the matter of impleadment of parties, an order of impleadment by a Court of law, in relation to a question where the status of the persons is involved, a person may have a right to be impleaded.

35. The presence of a party must be found to be necessary in order to enable the Court to adjudicate the questions which arise out of the lis. The satisfaction of the Court is necessary to the effect that he is a necessary and proper party. The concept that the approach of the Courts that under no situation a party would be considered to be a

person aggrieved or person interested either for the purpose of preference of appeal or otherwise, has undergone a sea change.”

10. Since the only ground on which the Court below has rejected the claim of the petitioners is that they did not file any record in proof of the fact that they are the children of Mahesh Chand through his first wife Smt Shanta Bai, and since the counsel for the 2nd respondent here admits the relationship of the petitioners to Mahesh Chand, the order dt.28.08.2017 in I.A.No.625 of 2017 in LAOP.No.1000 of 2013 of the XIV Additional District Judge, Ranga Reddy District at L.B. Nagar is set aside and the said I.A., is allowed.

11. Accordingly, this Civil Revision Petition is allowed. No order as to costs.

12. Consequently, miscellaneous petitions pending if any, shall stand closed.

M.S. RAMACHANDRA RAO, J

01st April, 2019.

gra