

HIGH COURT FOR THE STATE OF TELANGANA
THE HON'BLE SRI JUSTICE RAGHVENDRA SINGH CHAUHAN

AND

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

A.S.No.803 of 2002

Date: 18.02.2019

Between:

Azam Bee and others

...Appellants

and

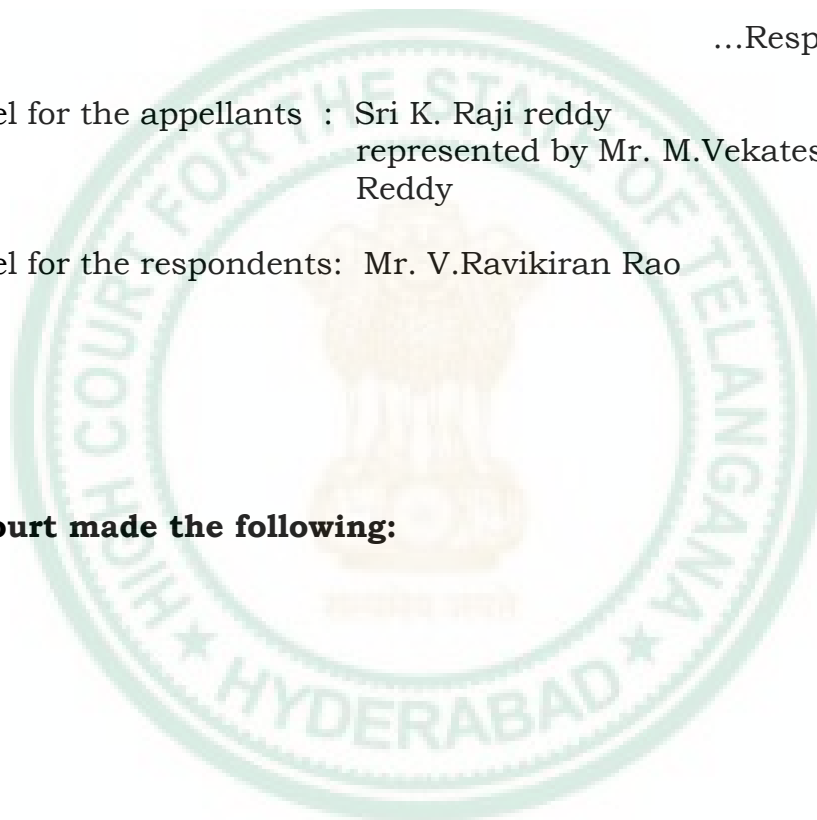
Special Deputy Collector and others

...Respondents

Counsel for the appellants : Sri K. Raji reddy
represented by Mr. M.Vekateswar
Reddy

Counsel for the respondents: Mr. V.Ravikiran Rao

The Court made the following:



JUDGMENT: (Per the Hon'ble Sri Justice Raghvendra Singh Chauhan)

The appellants are aggrieved by the judgment and decree dated 18.08.2001, passed by the Additional District Judge, Medak at Sangareddy, whereby the learned Judge has apportioned the compensation in favour of certain respondents-claimants. However, the learned Judge has not apportioned any compensation in favour of the appellants.

The brief facts of the case are that the land located in Survey No.10 of Siroor Village, Raikode Mandal, admeasuring Acs.15.00, was acquired for the Singoor Project. After completing the acquisition proceedings, an award was passed on 25.11.1988. During the course of award enquiry, it was discovered that the land was notified in the names of the claimant Nos.1 to 5. The claimant No.9 filed an objection to the effect that a final decree was passed by the Civil Court in O.S.No.14 of 1969. According to the judgment and decree, the claimant Nos.9 to 13 were entitled for compensation. The claimant Nos. 6 to 8 also filed their statement and they claimed that they purchased the property after the final decree. Therefore, they too were entitled for part of the compensation amount. On the other hand, the claimant No.1 pleaded that another suit, namely O.S.No.17 of 1984, was pending, therefore, no amount could be apportioned to any of the claimants. But according to the other claimants, the suit was already dismissed.

Before the trial Court, the claimant No.15 pleaded that he sold an extent of Acs.2.00 in favour of the claimant No.2. Therefore, he had withdrawn his claim and the claimant No.2 was entitled to receive the compensation to the extent of Acs.2.00. The

claimant Nos.16 and 17 also got themselves impeladed by saying that a loan was obtained by the claimant Nos.9, 10 to 13 and 14. However, rest of the claimants, namely the claimant Nos.13 and 18 to 21, (the appellants before this Court) neither appeared before the trial Court, nor adduced any evidence on their behalf.

After hearing all the parties, by the impugned judgment dated 18.08.2001, while the learned trial Court has apportioned the compensation in favour of the claimant Nos.9, 10, 11 and 12, and balance of the compensation in favour of the claimant Nos.1 to 5, it has not apportioned any compensation in favour of the claimant Nos.13 and 18 to 21. Hence, this appeal before this Court.

Mr. M. Venkateswar Reddy, the learned counsel, representing Mr. K.Raji Reddy, learned counsel for the appellants, has pleaded that the claimant Nos.13 and 18 to 21 were equally entitled to apportionment of the compensation. Hence, the impugned judgment should be set aside, or at best should be modified in their favour.

However, Mr. V.Ravi Kiran Rao, the learned counsel for the respondents, has vehemently contended that since the appellants neither appeared before the trial Court, nor adduced any evidence in their favour, they cannot seek the disbursement of part of the compensation in their favour.

In rejoinder, the learned counsel for the appellants submits that their Advocate had filed a memo on 29.03.2001 and had pleaded that the shares should be allotted in pursuance of the memo. Therefore, the learned trial Court has erred in ignoring the said memo.

However, the learned counsel for the respondents has countered that since no evidence was led, in order to buttress the claim made in the said memo, the learned trial Court was justified in disregarding the memo, and in passing the impugned judgment.

Heard the learned counsel for the parties and perused the impugned record.

It is, indeed, trite to state that a party who avers certain facts in his/her favour, is required to prove the claim made by him/her. Even if a memo had been filed by the Advocate on 29.03.2001, the appellants were duty-bound to establish their claim as stated in the memo. But according to the learned trial Court, the appellants neither appeared before the trial Court, nor adduced any evidence in their favour. Therefore, the learned trial Court was legally justified in ignoring the memo filed by the Advocate on 29.03.2001. Since the appellants failed to establish their case before the learned trial Court, the learned trial Court was legally justified in ignoring their claim.

For the reasons stated above, this Court does not find any perversity or illegality in the impugned judgment dated 18.08.2001.

This appeal is devoid of any merits; it is, hereby, dismissed. There shall be no order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

(RAGHVENDRA SINGH CHAUHAN, J)

(T. AMARNATH GOUD, J)

18th February, 2019
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