

HON'BLE SRI JUSTICE M.S. RAMACHANDRA RAO

CIVIL REVISION PETITION No.5367 of 2012

ORDER :

This Civil Revision Petition is filed under Article 227 of the Constitution of India challenging the order dt.24.07.2012 in I.A.No.1290 of 2011 in LAOP.No.181 of 2011 passed by the Special Judge-cum-Additional District and Sessions Judge, L.B. Nagar, Ranga Reddy District.

The petitioner - Bank is a third party to the said LAOP.No.181 of 2011. It filed the said I.A.No.1290 of 2011 seeking for its impleadment as proposed claimant No.10 in the said LAOP.No.181 of 2011 alleging that the property belonging to one Y. Prabhakar Rao was mortgaged to it for grant of Working Capital loan to a Company, by name M/s. Suvidha Electronics Limited; that the said company did not repay the loan amount; that the petitioner filed O.A.No.117 of 1996 (re-numbered as O.A.No.89 of 1999) before the Debt Recovery Tribunal at Hyderabad, and obtained recovery order and certificate on 29.09.2006; that the property mortgaged to it by Sri Y. Prabhakar Rao was acquired by the State by virtue of the Notification issued under the Land Acquisition Act, 1894; there was a reference made under Section 30 and 31 of the said Act, which has been numbered as LAOP.No.181 of 2011; and since the petitioner is not in a position to execute the recovery certificate obtained by it, it is entitled to get

impleaded in LAOP.No.181 of 2011 and claim compensation awarded by respondent No.10.

The said application was opposed by respondent No.2 by filing counter. He contended that the petitioner is neither a necessary nor a proper party to the LAOP.No.181 of 2011. He denied that Sri Y. Prabhakar Rao mortgaged the land belonging to him to the petitioner - Bank. He alleged that his son, by name Sri Malneedu Harish purchased the acquired land from Sri Y. Prabhakar Rao on 28.09.1995, that his son died subsequently and respondent No.2 was taking care of the property.

By order dt.24.07.2012, the Court below dismissed I.A.No.1290 of 2011. It relied on a decision of this Court in POLAKI ROJAMANI AND OTHERS vs. MANDAL REVENUE OFFICER, PALAKONDA AND OTHERS¹, wherein this Court had taken the view that an application filed under Order 1 Rule 10 of C.P.C. is not maintainable in a reference made under Section 30 of the Land Acquisition Act.

Assailing the said order dt.24.07.2012, this Revision is filed.

Learned counsel for the petitioner – Bank relied on a Larger Bench decision of this Court in REPAKA BHYRAVAMURTHY v. M. VENKATARAJU², wherein a Larger Bench held that in a reference under Section 30 of the Land

¹ 1997 (5) ALT 773

² 2001 (5) ALT 565 (L.B.)

Acquisition Act, not only the question of title, but also the status of the parties may be involved and so, Order 1 Rule 10 of C.P.C. can be invoked.

No other decision to the contra is produced by the learned counsel for the respondents.

Therefore, in view of the Larger Bench judgment of this Court in REPAKA BHYRAVAMURTHY's case (2 supra), the decision in POLAKI ROJAMANI's case (1 supra) cannot be said to be a good law and the same is deemed to be overruled.

Accordingly, this Civil Revision Petition is allowed; order dt.24.07.2012 in I.A.No.1290 of 2011 in LAOP.No.181 of 2011 passed by the Special Judge-cum-Additional District and Sessions Judge, L.B. Nagar, Ranga Reddy District, is set aside; and the said I.A.No.1290 of 2011 is allowed.

It is made clear that this Court has not expressed any opinion on the rival contentions of the parties and they are permitted to raise all the contentions open to them in the said LAOP.No.181 of 2011. No order as to costs.

As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

M.S. RAMACHANDRA RAO, J

29.03.2019.
Msr

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