

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

C.R.P. No.6388 of 2018

O R D E R:

This Revision is filed under Article 227 of Constitution of India challenging the order dt.07.09.2018 in I.A.No.287 of 2018 in L.A.O.P.No.91 of 2007 of Principal Senior Civil Judge, Karimnagar.

2. Petitioners herein are claimants 4 to 6 in the O.P.
3. There was another claimant by name G.V.Sadasivarao who was claimant No.1. During the pendency of the O.P. which was a reference for enhancement of compensation under Section 18 of the Land Acquisition Act, 1894 (for short 'the Act'), the said G.V.Sadasivarao died.
4. The daughter-in-law of the deceased got herself impleaded on the basis of a WILL Ex.A.1 allegedly executed by the deceased in her favour.
5. The petitioners, who are sons of the deceased contended that the said WILL is not genuine and filed I.A.No.287 of 2018 to adjudicate the entitlement and apportionment of the shares of the petitioners in this proceedings itself in addition to adjudication in receipt of enhancement of compensation to avoid multiplicity of litigation.
6. Claimant No.2/1st respondent filed a counter stating that in reference under Section 18 of the Act, only claim of

enhancement of compensation can be gone into and the Court cannot go into apportionment of shares.

7. By order dated 07.09.2018, the Court below dismissed the said application. It held that in reference under Section 18 of the Act, reference Court can only see whether compensation can be enhanced or not, but it cannot decide the share of properties. It observed that in cases where there are any rival claims with regard to compensation, the issue should be brought to the notice of the Land Acquisition Officer and on his reference to the Court only, the Court will decide the shares. It, therefore, granted liberty to the petitioners to approach the competent authority and to file appropriate application.

8. Assailing the same, this Revision is filed.

9. Counsel for the petitioners sought to contend that the petitioners' application I.A.No.287 of 2018 ought to have been decided in their favour by the Court below; that provision of CPC would apply to reference in Land Acquisition Act, 1894 also; and under Order 22 Rule 5 CPC, the Court can go into the question as to who is the legal heir of the deceased G.V.Sadasivarao.

10. Counsel for the respondent No.1/claimant No.2 refuted the said contention and relied on the judgment of the

Supreme Court in ***P.K.Sreekantan & Ors. V. P.Sreekumran Nair & Ors***¹.

11. In the said judgment, the Supreme Court has held that in a reference under Section 18 of the Act, the Court can only go into the question as to whether compensation is liable to be enhanced or not and it cannot determine or consider anything beyond that. It also held that it is impermissible to deal with a matter covered under Section 30 of the Act while dealing with a reference under Section 18 of the Act. It further observed that there is no time limitation for seeking reference under Section 30 of the Act, though it should be always done within a reasonable time. It permitted the appellants in that case to make an application before the competent Land Acquisition Authority seeking reference in terms of Section 30 of the Act.

12. In view of the above settled legal position, which is not disputed by the counsel for the petitioners, the plea of the petitioners that question of apportionment of compensation also to be gone into in LAOP.No.91 of 2007 which arises out of reference under Section 18 of the Act cannot be countenanced.

13. So, the Court below did not commit any error of jurisdiction in refusing to accept the plea of the petitioners.

¹ AIR 2007 Supreme Court 516

14. Accordingly, the Civil Revision Petition fails and is dismissed. However, liberty is given to the petitioner to make an application before the Land Acquisition Authority seeking reference under Section 30 of the Act and if such application is made, the same shall be considered in accordance with law by such authority. No costs.

15. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

M.S.RAMACHANDRA RAO, J

03.04.2019
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