NC: 2024:KHC-K:10011
WP No. 200812 of 2024
C/W WP No. 201485 of 2024
WP No. 201486 of 2024

IN THE HIGH COURT OF KARNATAKA,

KALABURAGI BENCH

R

DATED THIS THE 20TH DAY OF DECEMBER, 2024

BEFORE

THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

WRIT PETITION NO. 200812 OF 2024 (LA-RES)
C/W
WRIT PETITION NO. 201485 OF 2024(GM-CPC)
WRIT PETITION NO. 201486 OF 2024(GM-CPC)

IN W.P.NO.200812 OF 2024
BETWEEN:

CHANDRASHEKHAR
S/O MANIKRAO
AGED ABOUT 55 YEARS
OCC: AGRICULTURE
RESIDENT OF HUCHAKANALLI VILLAGE,
TQ AND DIST: BIDAR-585401

...PETITIONER

(BY SRI. RAVI B. PATIL., ADVOCATE)

Digitally signed by SHWETHA RAGHAVENDRA
Location: HIGH COURT OF KARNATAKA

AND:

1. THE SPECIAL LAND ACQUISITION OFFICER
   KARANJA PROJECT,
   D.C. OFFICE
   BIDAR 585401

2. THE EXECUTIVE ENGINEER
   KNNL KPC DIVISION 1
   BIDAR 585401

3. SRI. RAMESH
   S/O LATE VEERSANGAPPA
   AGED ABOUT 52 YEARS

OCC: AGRICULTURE
R/O BHARTAMBRA VILLAGE
TQ BHALKI, DIST BIDAR-585401.

4. SRI. RAJASHEKHAR
S/O LATE VEERSANGAPPA
AGED ABOUT 50 YEARS
OCC: AGRICULTURE,
RESIDENT OF BHATAMBRA VILLAGE
TQ: BHALKI, DIST: BIDAR

5. SMT. SARASWATI
D/O LATE SHAMRAO
W/O MANSHETTY
AGED ABOUT 48 YEARS
OCC: HOUSEHOLD.
RESIDENT OF SHIKAR MOTHAKPALLI VILLAGE
TQ .CHINCHOLI
DIST KALABURAGI-585104.

… RESPONDENTS

(V/O/DATED 20.3.2024
BY SMT. MAYA T.R., HCGP FOR R1;
SRI. SANJEEV KUMAR C. PATIL., ADVOCATE FOR R2;
SRI. HARSHAVARDHAN R. MALIPATIL.,
ADVOCATE FOR R3 TO R5)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE WRIT OF CERTIORARI TO QUASH THE IMPUGNED ORDER DATED 06.02.2024 PASSED ON I.A.NO.2 IN LAC NO.107/2018 PENDING ON THE FILE OF ADDITIONAL DISTRICT AND SESSIONS JUDGE AT BIDAR AS AT ANNEXURE-H, AS ILLEGAL AND CONTRARY TO THE SETTLED PROPOSITION OF LAW AND ETC.

IN W.P.NO.201485 OF 2024
BETWEEN:

SUVARNA
D/O SANGRAMAPPA
AGED ABOUT 35 YEARS
OCC: AGRICULTURE
R/O HUCHAKANALLI VILLAGE
TQ AND DIST BIDAR-585401

...PETITIONER

(BY SRI. RAVI B. PATIL., ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
   THROUGH THE SPECIAL LAND
   ACQUISITION OFFICER
   KARANJA PROJECT, D.C. OFFICE
   BIDAR 585401

2. THE EXECUTIVE ENGINEER
   KNNL KPC DIVISION 1, BIDAR 585401

3. SRI. RAMESH
   S/O LATE VEERSANGAPPA
   AGED ABOUT 52 YEARS
   OCC: AGRICULTURE
   R/O BHARTAMBRA VILLAGE
   TQ BHALKI, DIST BIDAR-585401.

4. SRI. RAJASHEKHAR
   S/O LATE VEERSANGAPPA
   AGED ABOUT 50 YEARS
   OCC: AGRICULTURE,
   RESIDENT OF BHATAMBRA VILLAGE
   TQ: BHALKI, DIST: BIDAR-585401

5. SMT. SARASWATI
   D/O LATE SHAMRAO
   W/O MANSHETTY
   AGED ABOUT 48 YEARS
   OCC: HOUSEHOLD.
   RESIDENT OF SHIKAR MOTHAKPALLI VILLAGE
   TQ .CHINCHOLI, DIST KALABURAGI-585307.

… RESPONDENTS

(BY SRI. HARSHAVARDHAN R. MALIPATIL.,
ADVOCATE FOR R3)

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE WRIT OF CERTIORARI TO QUASH THE IMPUGNED ORDER DATED 27.05.2024 PASSED ON I.A. UNDER ORDER I RULE 10(2) OF CODE OF CIVIL PROCEDURE IN LAC NO.61/2022 PENDING ON THE FILE OF ADDITIONAL DISTRICT AND SESSIONS JUDGE AT BIDAR AS AT ANNEXURE-F, AS ILLEGAL AND CONTRARY TO THE SETTLED PROPOSITION OF LAW AND ETC.

IN W.P.NO.201486 OF 2024
BETWEEN:

SMT. KAVITA
W/O CHANDRASHEKHAR
AGED ABOUT 53 YEARS
OCC: HOUSEHOLD AND AGRICULTURE
R/O HUCHAKANALLI VILLAGE
TQ AND DIST BIDAR

...PETITIONER

(BY SRI. RAVI B. PATIL., ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
   THROUGH THE SPECIAL LAND
   ACQUISITION OFFICER
   KARANJA PROJECT, D.C. OFFICE
   BIDAR 585401

2. THE EXECUTIVE ENGINEER
   KNNL KPC DIVISION 1, BIDAR 585401

3. SRI. RAMESH
   S/O LATE VEERSANGAPPA
   AGED ABOUT 52 YEARS
   OCC: AGRICULTURE
   R/O BHARTAMBRA VILLAGE
   TQ BHALKI, DIST BIDAR-585401.

4. SRI. RAJASHEKHAR
   S/O LATE VEERSANGAPPA
   AGED ABOUT 50 YEARS
   OCC: AGRICULTURE,
   RESIDENT OF BHATAMBRA VILLAGE
   TQ: BHALKI, DIST: BIDAR-585401

5. SMT. SARASWATI
   D/O LATE SHAMRAO
   W/O MANSHETTY
   AGED ABOUT 48 YEARS
   OCC: HOUSEHOLD.
   RESIDENT OF SHIKAR MOTHAKPALLI VILLAGE
   TQ .CHINCHOLI, DIST KALABURAGI-585307.

... RESPONDENTS

(BY SMT. MAYA T.R., HCGP FOR R1;
SRI. HARSHAVARDHAN R. MALIPATIL.,
ADVOCATE FOR R3 TO R5;

R2-SERVED)

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE WRIT OF CERTIORARI TO QUASH THE IMPUGNED ORDER DATED 27.05.2024 PASSED ON I.A. UNDER ORDER I RULE 10 OF CODE OF CIVIL PROCEDURE IN LAC NO.60/2022 PENDING ON THE FILE OF ADDITIONAL DISTRICT AND SESSIONS JUDGE AT BIDAR AS AT ANNEXURE-G, AS ILLEGAL AND CONTRARY TO THE SETTLED PROPOSITION OF LAW AND ETC.

THESE WRIT PETITIONS COMING ON FOR ORDERS AND HAVING BEEN RESERVED FOR ORDERS ON 21.11.2024, THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

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CAV ORDER

(PER: HON'BLE MR. JUSTICE SURAJ GOVINDARAJ)

A. Background

1. The Petitioner in W.P. No. 200812/2024 is before this Court seeking for the following reliefs:

   *i. Issue a Writ of Certiorari to quash the impugned Order dated 06.02.2024 passed on I.A. No.2 in LAC No. 107/2018 pending on the file of Additional District and Sessions Judge at Bidar as at **Annexure-H**, as illegal and contrary to the settled proposition of law.*

   ii. Pass any Order or orders which may be deemed fit by this Hon'ble Court in the circumstances of the case.

2. The Petitioner in W.P. No. 201485/2024 is before this Court seeking for the following reliefs:

   *a. Issue a Writ of Certiorari to quash the impugned Order dated 27.05.2024 passed on I.A. under Order I Rule 10 of Code of Civil Procedure in LAC No. 61/2022 pending on the file of Additional District and Sessions Judge at Bidar as at **Annexure-G**, as illegal and contrary to the settled proposition of law.*

   b. Pass any Order or orders which may be deemed fit by this Hon'ble Court in the circumstances of the case.

3. The Petitioner in W.P. No. 201486/2024 is before this Court seeking for the following reliefs:

   a. Issue a Writ of Certiorari to quash the impugned Order dated 27.05.2024 passed on I.A. under Order I Rule 10 of Code of Civil Procedure in LAC No. 60/2022 pending on the file of Additional District and Sessions Judge at

*Bidar as at **Annexure-F**, as illegal and contrary to the settled proposition of law.*

b. Pass any Order or orders which may be deemed fit by this Hon'ble Court in the circumstances of the case.

Facts in W.P. No.200812/2024

4. The petitioner claims to be the absolute owner of the land in Sy.No.121/2, measuring 29 Guntas, situated at Huchakanalli Village, Taluk and District Bidar, which was proposed to be acquired vide a notification issued under Section 4(1) of the Land Acquisition Act, 1894 on 7.6.2011, for a project known as Karanja. A final notification under Section 6(1) came to be issued on 9.11.2012. In both the notifications, the name of the petitioner has been shown as the owner of the aforesaid land. The Special Land Acquisition Officer - Respondent No.1, passed an award of compensation assessing the value to be Rs.4,64,166/- on 16.11.2014. By then, the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 having come into force, the Petitioner filed a reference application under Subsection (1) of Section 64 of the Act of 2013. Based on which, the SLAO prepared a checklist

and reference was made to the District and Sessions Judge, Bidar which came to be numbered as LAC No.107/2018.

5. In the said proceedings, Respondents No.3 to 5, claiming to be interested persons, interested in the award of compensation, claiming that they had ownership interest in the property, there being no partition among the brothers of the father of the Petitioner, the property being ancestral in nature, had filed an application under Order 1, Rule 10 (2) of the Code of Civil Procedure, which application was opposed by the Petitioner. The Reference Court, however, allowed the application vide order dated 6.2.2024. Despite the Petitioner and the Respondents having contended that the dispute between them has been settled, the Court came to a conclusion that such settlement cannot deprive Respondents No.3 to 5 or the Court from granting compensation. Any compensation amount awarded could be received, distributed or divided between the parties, and being of the opinion that it would result in multiplicity of proceedings, memo of settlement was rejected; impleading application was

allowed, and the plaintiff was directed to carryout amendment and file amended petition.

Facts in W.P. No.201485/2024

6. The petitioner claims to be absolute owner of land in Sy.No.9/1B, measuring 3 acres situated at Huchakanalli Village, Bidar Taluk and District. The said land also was acquired under the Land Acquisition Act, 1894 and an award came to be passed on 6.1.2022, after the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 came into force under Section 23 and 31 of the Act of 2013. The name of the petitioner was found in the preliminary notification, final notification, as also the award. The Petitioner, not satisfied with the compensation awarded, had sought for determination of the market value of the property in terms of Section 64 of the Act of 2013, which came to be referred to the Additional District Judge at Bidar, and the proceedings were numbered as LAC No.61/2022.

7. Respondents No.3 to 5, claiming to be interested persons in the award of compensation; claiming that there is no partition among the brothers of the father of the petitioner and respondents No.3 to 5, the property being ancestral property, had sought to implead themselves by filing an application under Order 1, Rule 10 (2) of the Code of Civil Procedure. The petitioner objected to the said application.

8. The Reference Court vide its order dated 27.5.2024 observing that both the counsel for the Petitioner and the counsel for the impleading applicants were absent, coming to a conclusion that in the impleading application, it was mentioned that the impleading applicant is an owner of the property, the Court being of the opinion that no loss, inconvenience or hardship will be caused to the Petitioner if the application is allowed, as both parties will have opportunity to adduce evidence, allowed the application and directed the petitioner to carry out amendment and file amended petition.

Facts in W.P. No.201486/2024

9. The petitioner claims to be the absolute owner of the land in Sy.No.8/2 measuring 1 acre, situated at Huchakanalli Village, Bidar Taluk and District. The said land also was acquired under the Land Acquisition Act, 1894 and an award came to be passed on 6.1.2022, after the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 came into force under Section 23 and 31 of the Act of 2013. The name of the petitioner was found in the preliminary notification, final notification, as also the award. The Petitioner, not satisfied with the compensation awarded, had sought for determination of the market value of the property in terms of Section 64 of the Act of 2013, which came to be referred to the Additional District Judge at Bidar, and the proceedings were numbered as LAC No.60/2022.

10. Respondents No.3 to 5, claiming to be interested persons in the award of compensation; claiming that there is no partition among the brothers of the father of the petitioner and respondents No.3 to 5, the property being ancestral property, had sought to implead themselves by

filing an application under Order 1, Rule 10 (2) of the Code of Civil Procedure. The petitioner objected to the said application.

11. The Reference Court vide its order dated 27.5.2024 observing that both the counsel for the Petitioner and the counsel for the impleading applicants were absent, coming to a conclusion that in the impleading application, it was mentioned that the impleading applicant is an owner of the property, the Court being of the opinion that no loss, inconvenience or hardship will be caused to the Petitioner if the application is allowed, as both parties will have opportunity to adduce evidence, allowed the application and directed the petitioner to carry out amendment and file amended petition.

B. Submissions of learned Counsel for the Petitioners in all the above three matters:

12. Shri. Ravi B. Patil, learned Counsel appearing on behalf of the Petitioners in all the above matters would submit that:

12.1. Upon seeking reference against the award dated 16.11.2014, the said award stood withdrawn. Thereafter firstly, he submits that the LA Act is a complete code by itself providing remedies for not only parties whose lands are subject matter of acquisition but also for any third-party claims relating to the award of compensation amount or any apportionment of the same.

12.2. Secondly, the reference court derives jurisdiction from an order of reference made and is bound to only determine the adequacy of the amount of compensation awarded and it is not within its jurisdiction to entertain any applications that are 'Pro-Interesse Suo'.

12.3. In this regard he places reliance on a decision of the Hon'ble Apex Court in **Shyamali Das vs Illa Chowdhry and Ors.**[1], more particularly

[1] 2006 INSC 781

para no. 19 thereof, which has been reproduced hereunder for easy reference:

> ***19.*** *The Act is a complete code by itself. It provides for remedies not only to those whose lands have been acquired but also to those who claim the awarded amount or any apportionment thereof. A Land Acquisition Judge derives its jurisdiction from the order of reference. It is bound thereby. His jurisdiction is to determine adequacy or otherwise of the amount of compensation paid under the award made by the Collector. It is not within his domain to entertain any application of pro interesse suo or in the nature thereof.*

12.4. By relying on **Shyamali Das's** case, his submission is that the Respondent Nos. 3-5 herein are bound by the provisions of the LA Act and an impleading application without preferring a reference would not be maintainable.

12.5. The learned Counsel further submits that an impleading applicant cannot stretch the scope of enquiry under section 18 and section 30 of the LA Act, his contention is that a person claiming to have an interest in the compensation amount but not a party to

proceedings before the collector, cannot be made a party to an apportionment adjudication under section 18 or 30 of the LA Act. Hence, Respondent Nos. 3-5 seeking to be impleaded under Order I Rule 10 of the CPC much after a reference was made by the Reference Court are not entitled to come on record at such a belated stage.

12.6. He relies on the decision of the Hon'ble Apex Court in the **Prayag Upnivesh Awas Evam Nirman Sahkari Samiti Ltd. vs Allahabad Vikas Pradhikaram[2],** more particularly para no. 7 thereof, which has been reproduced hereunder for easy reference:

> ***7.*** *It is well established that the Reference Court gets jurisdiction only if the matter is referred to it under Section 18 or 30 of the Act by the Land Acquisition Officer and that the civil court has got the jurisdiction and authority only to decide the objections referred to it. The Reference Court cannot widen the scope of its jurisdiction or decide matters which are not referred to it. This question*

[2] (2003) 5 SCC 561

was considered by various judicial authorities and one of the earliest decisions reported on this point is Pramatha Nath Mullick Bahadur v. Secy. of State [AIR 1930 PC 64 : ILR 57 Cal 1148] . This was a case where the claimant sought a reference under Section 18 of the Act. In the application filed by the claimant, he raised objection only regarding the valuation of the land. The claimant did not dispute the measurements of the land given in the award. Before the Reference Court, the claimant raised objection regarding the measurements of the land and sought for fresh measurements. This was refused and the claimant applied to the High Court for revision of this order, but without success. Again, in the appeal, the claimant raised the same objection regarding measurements and the High Court rejected it. The Judicial Committee of the Privy Council held thus: (AIR p. 65)

"Their Lordships have no doubt that the jurisdiction of the courts under this Act is a special one and is strictly limited by the terms of these sections. It only arises when a specific objection has been taken to the Collector's award, and it is confined to a consideration of that objection. Once therefore it is ascertained that the only objection taken is to the amount of compensation, that alone is the 'matter' referred, and the court has no power to determine or consider anything beyond it."

12.7. By relying on **Upnivesh Agarwal's** case he submits that the scope of adjudication by a reference Court is plainly limited to decide on the objection raised to the Collector's award and in this case the Petitioner having sought for a reference adjudication to enhance the

quantum/amount of compensation, there exists no scope to entertain a plea for impleadment and only the objection to the compensation awarded can be entertained. Hence the Reference Court has decided outside of its jurisdiction in allowing the impleading application.

12.8. He places reliance on a decision of the Hon'ble Apex Court in **Ram Prakash Agarwal vs Gopi Krishnan and Ors.**[3], more particularly para no. 27 thereof which has been reproduced hereunder for easy reference:

> ***27.*** *It is evident from the above, that a person who has not made an application before the Land Acquisition Collector, for making a reference under Section 18 or 30 of the 1894 Act, cannot get himself impleaded directly before the Reference Court.*

12.9. By relying on **Ram Prakash Agarwal's** case, he submits that an impleading application

[3] (2013) 11 SCC 296

without having applied for reference under sections 18 and 30 would not be maintainable, the Respondents 3-5 not having sought for a reference under the relevant provisions holds no locus before the Reference Court.

12.10. He relies upon a decision of this Court in **Chikkasubbanna & Ors. vs Special Land Acquisition Officer & Ors.**[4], more particularly para nos. 4, 5, 6 and 7 thereof, which have been reproduced hereunder for easy reference:

> ***4.****The question that needs to be examined is that as to whether respondent No.2 is entitled to be heard in the pending proceedings before LAC No.13/2012, LAC No.19/2012 and LAC No.20/2012. Except filing impleading application, respondent No.2 has not produced any documents to indicate as to how she is interested in the properties. All that is stated in the affidavit is that she is half share along with respondent No.3 – K.Govardhan and therefore, she would contend that the compromise recorded in O.S. No. 151/2002 would not bind her legitimate share. Now, if these averments are examined having regard to the scope of enquiry under Section 30 of the Land Acquisition Act, I am of the view that the respondent No.2 cannot seek adjudication of her rights in the present proceedings, which are referred under Section 30 of the Land Acquisition Act on account of objection tendered by respondent*

[4] WP No. 7794/2021 | 2022:KHC:22493

No.3 by filing a suit. By merely filing an impleading application, respondent No.2 – impleading applicant cannot extend scope of enquiry under Section 30 of Land Acquisition Act, which is not permissible.

5.*The jurisdiction of Court in a reference under Section 30 of the Land Acquisition Act made by the Collector is confined to consideration of the dispute expressly referred to by the collector. Person claiming share in compensation money, who was not party to proceeding before the Collector, cannot be made part to apportionment case and new matter cannot be allowed to be adjudicated under Section 30 of the Land Acquisition proceedings. The impleading applicant having filed an impleading application seeking leave of the Court to be a party to the reference under Section 30 of the Act was required to demonstrate that she is a 'person interested' and entitled to obtain compensation having filed an impleading application. The said application need not accompanied by any document except bald allegations contending that she is a joint owner along with the said K.Govardhan.*

6.*The proper disposal of a reference under Section 30 of the Act requires adjudication as to the person to whom the compensation is payable and as to the apportionment of that compensation between them. It is further court hearing of reference to take all necessary steps to ensure an effective and complete adjudication is rendered. But, before the Court can be compelled to relegate the parties for adjudication, the impleading party has to make out a case and demonstrate that she is an 'interested party'. Having filed an impleading application, she is not even go forward to argue on the case.*

7.*Undisputedly, the manner the impleading applicant – respondent who is a intervener, admittedly is not a party to the proceedings before the land Acquisition Officer. It is also not in dispute that the impleading applicant has not filed any application for reference either under Section 18 of the Act or 30 of the Act. Therefore, the respondents, who is seeking impleadment much after reference was made by the Reference Court, is*

not entitled to come on record by invoking provisions under Order I Rule 10 of CPC.

12.11. By relying on **Chikkasubbanna's** case he submits that it is only an 'interested party' entitled to the compensation amount who may agitate to be impleaded at the stage of reference and the Respondents not being an interested party cannot be entertained for impleadment and the Trial Court has erred by doing so.

12.12. By relying on **Upnivesh Awas, Ram Prakash Agarwal** and **Chikkasubbanna's** cases, he submits that the jurisdiction to the Reference Court flows from sections 18 and 30 of the LA Act upon the Land Acquisition Officer's reference based on the objections raised and hence cannot widen its adjudication beyond the reference made, the Respondents being non-parties to the proceedings before the District Collector and not having preferred a reference

under the relevant provisions cannot be brought-in as parties to the reference proceedings by allowing the impleading application filed under Order I Rule 10 of the CPC.

12.13. He relies on the decision of this Court in **Nirmala Bai vs Vijay Kumar and Ors.**[5], more particularly para nos. 8 and 10 thereof, which have been reproduced hereunder for easy reference:

> ***8.****Reverting to the matter relating to the application for impleadment filed by the petitioner in Execution Petition No. 33/2011, it is noticed that the Executing Court took note of all the relevant facts and proceeded to reject the application so filed by the petitioner, while observing as under:*
>
> *"7. The grounds made out by the decree holder in his objections to the application filed by third party are not denied by learned counsel for third party applicant. Even no material is placed by the third party applicant to show that her name in LAC No. 10/1988/LAC571/1993, is not deleted. Even it is not denied by learned counsel for third party that there was no compromise. Further from the compromise decree in RA No.77/2008 which is on record, it is held that the suit OS No.117/1998 of the present third party is dismissed against the*

[5] 2018:KHC-K:4000

decree holder and that the present third party lost her right in OS No.117/1998. No material is placed by the third party in these proceedings against the said compromise decree in RA No. 77/2008. From the affidavit filed by the third party in support of the application, it is clear that the third party has suppressed all these circumstances before the court. No material to show that she had challenged the order rejecting her claim in LAC No. 10/1988. No material placed by third party to have challenged the compromise decree in RA No. 77/2008. No material is placed by the third party against the Judgment and Decree in OS No.117/1998 wherein she had allegedly claimed 1/9th share in the compensation amount. Further it is pertinent to note that in the present proceedings itself the third party applicant had filed the similar application under order 1 rule 10 CPC to implead herself and that subsequently she has withdrawn the said application on the ground that she has compromised with the decree holders out of the court. These are the factual circumstances to consider as relevant here. Learned counsel for the decree holder relies the principle laid down in AIR 1969 Mysore 313 and submits that a person not party before land Acquisition Officer cannot be impleaded by the Civil Court under Section 30 of land Acquisition Act. Similarly he submits that order 1 rule 10 CPC is not applicable to proceedings under Section 18 and 30 of Land Acquisition Act (AIR 1996 SC 1513). This is the legal position in respect of the application filed by the third party.

8. Thus as seen from the material on record it is clear that the application filed by the third party applicant Nirmalabai is not maintainable and the same is able to be dismissed. Accordingly, I answer points for consideration in negative."

10. *Per contra, learned counsel for the respondent has duly supported the order impugned and while relying on the decision of the Supreme Court in the case of Shyamali Das v. Illa Chowdhry: 2006 (12) SCC 300, has contended that the petitioner, who was not a party to the reference proceedings,*

was not entitled to maintain the application for impleadment in the execution proceedings.

12.14. By relying on **Nirmala Bai's** case, his submission is that a non-party before the Land Acquisition Officer cannot be impleaded in a reference under Section 30 of the LA Act and more particularly an impleading application (Order 1 Rule 10) is non-maintainable in respect of proceedings initiated under Section 18 and 30 of the Act.

12.15. He then submits that any third-party claiming interest in the award amount ought to seek a reference under section 30 of the Act before the Land Acquisition Officer, in a case where the amount in the award passed is already paid, the person claiming to be the aggrieved party shall have to approach the competent Court to instead seek for recovery of the amount against the receiver of the compensation under the award.

12.16. He relies upon the decision of the Hon'ble Apex Court in **My George vs Special Tahasildhar & Ors.**[6], more particularly para no. 27 thereof, which has been reproduced hereunder for easy reference:

> ***27.*** *In G.H. Grant (Dr.) v. State of Bihar [AIR 1966 SC 237] this Court has held that if a "person interested" is aggrieved by the fact that some other person has withdrawn the compensation of his land, he may resort to the procedure prescribed under the Act or agitate the dispute in suit for making the recovery of the award amount from such person.*

12.17. He relies on the decision of the Hon'ble Apex Court in **G.H. Grant vs State of Bihar**[7], more particularly para nos. 18 and 19 thereof, which have been reproduced hereunder for easy reference:

> ***18.*** *The scheme of the Land Acquisition Act is that all disputes about the quantum of compensation must be decided by resort to the procedure prescribed by the Act : it is also intended that disputes about the rights of owners to compensation being ancillary to the principal dispute should be decided by the Court to which power is entrusted. Jurisdiction of the Court in this behalf is not restricted to cases of apportionment,*

[6] (2010) 13 SCC 98
[7] AIR 1966 SC 237

but extends to adjudication of disputes as to the persons who are entitled to receive compensation, and there is nothing in Section 30 which excludes a reference to the Court of a depute raised by a person on whom the title of the owner of land has, since the award, devolved.

19. *It was strongly pressed that under Section 31 of the Land Acquisition Act the Collector is bound to tender payment of compensation awarded by him to the persons entitled thereto according to the award and that implied that a right in the amount of compensation arises to the person to whom compensation is directed to be paid under the award, and therefore the only persons who can raise a dispute under Section 30 are those whose names are set out in the award. This contention stands refuted by the plain terms of Section 30. The Collector is not authorised to decide finally the conflicting rights of the persons interested in the amount of compensation : he is primarily concerned with the acquisition of the land. In determining the amount of compensation which may be offered, he has, it is true, to apportion the amount of compensation between the persons known or believed to be interested in the land, of whom, or of whose claims, he has information, whether or not they have appeared before him. But the scheme of apportionment by the Collector does not finally determine the rights of the persons interested to the amount of compensation: the award is only conclusive between the Collector and the persons interested and not among the persons interested. The Collector has no power to finally adjudicate upon the title to compensation : that dispute has to be decided either in a reference under Section 18 or under Section 30 or in a separate suit. Payment of compensation therefore under Section 31 to the person declared by the award to be entitled thereto discharges the State or its liability to pay compensation (Subject to any modification by the Court), leaving it open to the claimant to compensation to agitate his right in a reference under Section 30 or by a separate suit.*

12.18. By relying on **My George** and **G.H. Grant's** case, his submission is that any claims as regards compensation by persons who are third-parties to the Collector's award can be remedied only by filing a reference application under Section 18 or 30 of the LA Act and hence in this matter the impleading applicants should exercise their statutory right instead of by-passing into the proceedings via impleadment while lacking locus for the same.

12.19. On the basis of the above submissions he submits that the writ petitions are to be allowed and the impugned orders to be set-aside.

C. Submissions of Ld. Counsels for Respondent Nos.1 to5:

13. Smt. Maya T.R. learned HCGP appearing for Respondent No.1 would submit that

13.1. Learned HCGP submits that an impleading application could neither have been filed in a reference proceeding nor could be entertained by the Court. Without the person being named in the preliminary notification or final notification, an award having been passed; a person claiming interest cannot directly approach the Reference Court for being impleaded. In this regard, she supports the cause of the petitioner.

14. Sri. Sanjeev Kumar C. Patil learned Counsel appearing on behalf of Respondent No. 2, would submit that;

14.1. the beneficiary of the acquisition submits that insofar as the beneficiary is concerned, it does not matter if the impleading application is allowed inasmuch as any claim of a third party would be resolved in the said proceedings, thus giving a go-by to multiplicity of proceedings

and as such the beneficiary would make payment of the due amounts in whosoever's favour the Court were to direct.

15. Shri. Harshvardhan R. Malipatil, learned Counsel appearing on behalf of Respondent Nos.3 to 5 would further submit that:

15.1. The filing of impleading application was to assert the right of the impleading applicant in the property. While determining the compensation payable, the Reference Court could also determine the apportionment of compensation. If the contention of the Petitioner were to be accepted, it would result in multiplicity of proceedings inasmuch as the impleading applicant would have to first approach the Deputy Commissioner and/or the SLO who would then make a reference. By that time, the present proceedings would have culminated, requiring another reference

proceedings to be held, resulting in confusion as regards the implementation of the orders and as such, the trial Court has rightly allowed the impleading application so as to avoid multiplicity of proceedings. On that basis, he submits that the writ petitions as filed would have to be dismissed.

16. Heard Shri. Ravi B. Patil, learned counsel for the Petitioner, Smt. Maya J.R. learned HCGP for Respondent No.1, Shri. Sanjeev Kumar C. Patil, learned counsel for Respondent No.2 and Shri. Harshvardhan R. Malipatil, learned counsel for Respondent Nos. 3-5.

D. Points for Consideration:

17. Upon perusal of the arguments advanced and the relevant material on record, the points that would arise for the consideration of this Court are:

1. Whether a third-party to acquisition proceedings claiming rights over the compensation amount awarded ought to

approach the Deputy Commissioner for a reference of dispute?

2. Whether a third-party claiming rights over a property and hence compensation thereof in respect of land acquisition can implead one-self directly before the Reference Court?

3. Whether the Order of the Trial/Reference Court allowing the impleading application suffer from any legal infirmity and requires interference at the hands of this Court?

4. What Order?

18. I answer the above points as under:

19. **<u>Answer to Point No.1:</u> Whether a third party to acquisition proceedings claiming rights over the compensation amount awarded ought to approach the Deputy Commissioner for a reference of dispute?**

<u>AND</u>

20. **<u>Answer to Point No.2:</u> Whether a third-party claiming rights over a property and hence, compensation thereof in respect of land acquisition can implead one-self directly before the Reference Court?**

20.1. The facts giving rise to the above matters and the issues have been detailed hereinabove.

Suffice it to say that in all the above matters, a third party to the award passed subsequent to the acquisition had sought to implead in the reference proceedings. The reference proceedings having been filed for enhancement of compensation by the persons whose name had been mentioned in the preliminary as also final notification and in whose favour award has been passed.

20.2. When the land is to be acquired, the details for identification of the land, details of the owner of the land as also the extent of the land proposed to be acquired is published in the preliminary notification. Subsequent thereto, notices are issued to the persons named in the said preliminary notification inviting them to submit their objections, if any, to the acquisition and after consideration of the said objections, a final notification is issued. This is the normal

and general procedure followed in all acquisition proceedings.

20.3. It may happen that on a preliminary notification being issued, persons other than whose names are mentioned in the preliminary notification, do also object to the acquisition and as such, their objections would be considered and their names may also be found mentioned in the final notification as also the award could be passed, in the name of such third parties also. Thus, unless there are third parties who have objected to the acquisition, the final notification is normally issued only as regards the persons whose name/s were found mentioned in the preliminary notification and the award is passed in relation thereto by naming only those persons.

20.4. The above proceedings are ones which are relating to applications filed by third parties at the reference stage, inasmuch as the person in whose name the award was passed, contending that the award passed is for a lesser amount, has sought for enhancement and the matter has been referred to the Reference Court to decide on the compensation to be paid by taking into consideration the submissions and contentions made that the award should have been for a higher amount. Thus, in the reference proceedings, the said proceedings being filed by one or more of the landowners; those contentions would be taken into consideration and the Reference Court could either reject the contentions or by upholding the contentions, enhance the compensation.

20.5. In the event of a party being aggrieved by the enhancement or rejection of enhancement or

lesser enhancement than what has been claimed, an appeal could also be filed and so on and so forth.

20.6. Normally, the proceedings in reference and/or appeal therefrom are between the acquiring authority, beneficiary of the acquisition and the land loser whose name has been mentioned in the final notification/award.

20.7. In the above matters, what has happened is that on a reference being made, certain persons had approached the Reference Court seeking for being impleaded in those proceedings claiming that they have a subsisting interest in the properties and their claim is also required to be considered by the Reference Court while considering the reference for enhancement of compensation. The impleading applications being allowed, the

petitioners are before this Court seeking for the aforesaid reliefs.

20.8. Their contentions have been detailed hereinabove. While formulating the above points for consideration, the word 'third party' has been used. This usage is not to denote that the applicant has no interest in the property but only to denote that the applicant is a third party to the acquisition proceedings, insofar as the applicant was not named in the preliminary notification, no notice was issued, no objections were filed by such person, and the final notification does not contain the name of such person. Consequently, the award also does not contain the name of such person. Thus, the reference made to a third party is only with regard to such third party not being a party to any notification or proceedings till that point of time. Whether such applicant has an

interest in the property acquired or not, it is not the subject matter of these proceedings.

20.9. Section 18 of the Land Acquisition Act, 1894 is reproduced hereunder for easy reference:

> ***18. Reference to Court.*** *- (1) Any person interested who has not accepted the award may, by written application to the Deputy Commissioner, require that the matter be referred by the Deputy Commissioner for the determination of the Court, whether his objection be to the measurement of the land, the amount of the compensation, the person to whom it is payable, or the apportionment of the compensation among the persons interested.*
>
> *(2) The application shall state the grounds on which objection to the award is taken:*
>
> *Provided that every such application shall be made within ninety days from the date of service of the notice from the Deputy Commissioner under Sub-section (2) of Section 12.*
>
> *(3)(a) The Deputy Commissioner shall within ninety days from the date of receipt of an application under subsection (1) make a reference to the court.*
>
> *(b) If the Deputy Commissioner does not make a reference to the Court within a period of ninety days from the date of receipt of the application, the applicant may apply to the Court to direct the Deputy Commissioner to make the reference, and the Court may direct the Deputy Commissioner to make the reference within such time as the Court may fix.*

20.10. Under the Land Acquisition Act, 1894, the process of making an award does not contemplate any detailed enquiry into the interest of any person in the property to be

acquired. However, in terms of Section 22 of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, the Collector could also require any such person to make or deliver to him at a time and place mentioned, a statement containing the name of every other person possessing any interest in the land or any part thereof as a co-proprietor, sub-proprietor, mortgagee, tenant or otherwise, including the nature of such interest, etc., and it is thereafter, that an award could be passed.

20.11. Once an award is passed, possession of the land could be taken and it is only at that stage that under Section 18 of the Act of 1894, any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector to the appropriate Court for

determination of the compensation, objections as regards measurement, the person to whom it is payable, or the apportionment of compensation among the persons interested who are already named in the notification/s or the award.

20.12. Under sub-Section (2) of Section 18, the applicant is required to state the grounds on which the objection to the award is taken. If the person making it was present or represented before the Collector within six weeks from the date of the Collector's award, in other cases, within six weeks of the receipt of the notice from the collector under subsection (2) of Section 2, or within six months from the date of the Collector's award, whichever period shall first expire. Thus, the proviso to Subsection (2) of Section 18 contemplates an application under Section 18 to be filed by a

person who was not present or represented before the Collector.

20.13. The reference, however, is made under Clause (b) of the Proviso that within six weeks of the receipt of the notice from the Collector under Subsection (2) of Section 12 which contemplates the Collector being required to give notice of the award to such of the persons interested as not present personally or by the representatives when the award is made. That would indicate that the appearance which has been mentioned in the proviso is as regards the physical appearance and/or representation through someone else and does not contemplate a person who is not party to the acquisition proceedings in the manner as afore detailed.

20.14. The second part of Clause (b) of the Proviso to subsection (2) of Section 18 indicates that the application under Section 18 shall be made within six months from the date of the Collector's award. But however, the reference point for calculation is the receipt of the notice under subsection (2) of Section (12) or from the date of award, whichever is earlier. Thus, by referring to the second portion of Clause (b) of subsection (2), it could be contended that a third party who is not a party to the acquisition proceedings could also file a reference application but since the same is considered in juxtaposition to a notice under subsection (2) of Section 12, it necessarily would imply that an application to be filed under Section 18, the applicant is required to be a party to the acquisition proceedings.

20.15. Under the Act of 2013, the procedure for determining compensation is slightly different. An award can be passed by the Collector in terms of Section 23 thereof. Corrections could be made by the Collector in the award in terms of Section 33 thereof and while doing so, consider any representation as regard to clerical or arithmetical mistakes and in terms of Section 64, refer the matter to the authority to consider the objections, if any, raised by any person interested who has not accepted the award. A similar provision as in subsection (2) of Section 18 is incorporated in Section 64.

20.16. Thus, whether under the Act of 1894 or the Act of 2013, unless details have been secured by the Collector under the Act of 2013 of any other person interested, then the application for enhancement of compensation and/or disputing the boundaries or the like can be made only by

a party to the acquisition and not by a third party. This right under Section 18 of the Act of 1894 or under Section 64 of the Act of 2013 is one conferred by statute and is limited to a person who is a party to the acquisition and not otherwise.

20.17. If a third party were to make an application to be impleaded in these proceedings claiming an interest, then in that event, it is the right of the third party which is required to be determined even prior to the application to consider enhancement of compensation, thus giving rise to a completely adversarial situation between the persons who have initially applied for reference and the person who now seeks to come on record, contending that he or she or they have an interest in the property requiring compensation to be paid to them.

20.18. Insofar as the Reference Court is concerned, the jurisdiction being derived by the Reference Court on the basis of a reference order passed by the Collector or authority under the Act of 1894 and insofar as the Act of 2013, the order of reference passed by the Collector, it is in terms of the reference made that the authority will get the jurisdiction as held by the Hon'ble Apex Court in ***Shyamali Das***'s case and the scope of such reference proceedings is only to decide the objections referred to it as held by the Hon'ble Apex Court in ***Prayag Upnivesh Awas Evam Nirman Sahkari Samiti Ltd. v. Allahabad Vikas Pradhikaran***'s case.

20.19. Under Section 18, it would be the compensation and under Section 30, it would be the apportionment which could be considered. Section 30 of the Land Acquisition Act, 1894 is reproduced hereunder for easy reference:

> ***30. Dispute as to apportionment. -*** *When the amount of compensation has been settled under section 11, if any dispute arises as to the apportionment of the same or any part thereof, or as to the persons to whom the same or any part thereof, is payable, the Deputy Commissioner may refer such dispute to the decision of the Court.*

20.20. A perusal of Section 30 would also indicate that where an amount of compensation has been settled under Section 11, if any dispute arises as to apportionment, the Collector may refer such dispute to the decision of the Court. Thus, even for a reference to be made as regards a dispute of apportionment, the claim or dispute raised as regards apportionment would be between the parties who are before the Collector and not otherwise; and in terms of Section 30, it is this dispute raised as regards apportionment, that is the *inter se* dispute between the person claiming interest in the land that the Collector could be referred to the Reference Court for adjudication.

20.21. Without a reference being made under Section 30, no dispute as regards apportionment could be considered by the Reference Court and without a reference being made under Section 18, no dispute as regards the quantum of compensation and/or measurement of the land, the person to whom it is payable or the apportionment of compensation among the persons interested could be made.

20.22. As afore observed, this would presuppose that all the interested parties are parties before the Collector and all of them have been referred to the Reference Court either under Section 18 or under Section 30. This being the Scheme of the Act of 1894 and more or less the same Scheme in the Act of 2013, however, these matters being related to the Act of 1894, this Court restricts itself to the Act of 1894.

20.23. It being clear that there is required to be a reference under Section 18 or 30 for the Reference Court to exercise jurisdiction and the scope of the proceedings being restricted by the order of reference, a third party to the acquisition proceedings was not named in the acquisition notification or was not before the Collector with objections or the like, cannot seek to implead himself or herself in the reference proceedings filed by another interested party who was a party to the acquisition.

20.24. In those circumstances, the third party to the acquisition is not remediless inasmuch as a third party who was not a party before the Collector or named in the acquisition notification could always approach the Collector placing on record the claims of such third party which could be considered by the Collector if it

were to come within the purview of Section 18 and 30 and refer the matter to the very same Reference Court.

20.25. There could also be a situation where there is no reference made by the parties to the acquisition but a third party to the acquisition could approach the Collector laying an independent claim as regards such third parties' right over the property claiming that the person/s who have been named in the acquisition notification and/or the award do not have any interest in the property and as such, the award has to be made in favour of such third party. Even in such situation, Section 18 would come to the rescue of such third party since it relates to the persons to whom it is payable or the apportionment of the compensation among the persons interested. The first part relating to the persons to whom it is payable would include even a claim of a party

who is not a party to the notification or the award.

20.26. In view of the above, I answer the Points No.1 and 2 as under:

20.26.1. A third party to the acquisition proceedings claiming right over the compensation amount awarded cannot approach the Reference Court seeking to implead himself or herself in the said proceeding.

20.26.2. The third party to the acquisition notification and/or the award would have to necessarily approach the Collector/Deputy Commissioner placing on record the claim of such third party and claiming that it is the third party who is entitled to the compensation, which could be considered by the Collector or Deputy

Commissioner and the matter be referred to the Reference Court. This reference could be made to the very same Reference Court if already a reference is pending and if no reference is pending, then a reference could be made to the Reference Court as regards the claim of such third party to the acquisition.

20.26.3. It would be mandatory for the Collector to refer all references relating to a particular property acquired under a particular notification to the very same Reference Court so as to avoid multiplicity of proceedings and/or inconsistent orders.

21. **<u>Answer to Point No.3:</u> Whether the order of the Trial/Reference Court allowing the impleading application suffer from any legal infirmity and**

requires interference at the hands of this Court?

21.1. In view of my answers to Points No.1 and 2 above, it is clear that the third party to the acquisition proceedings could not file impleading application in a reference proceedings. It is for the third party to approach the Collector/Deputy Commissioner seeking for reference of the claim of such third party to the Reference Court. The same not having been done, the trial Court directly allowing the impleading application is not contemplated under the scheme of the Act as it stands today.

21.2. Though by reserving liberty to the third parties to approach the Deputy Commissioner, the Deputy Commissioner being duty-bound to refer the matter to the Reference Court within the time period prescribed, the filing of a fresh application for reference, when the matter is

already pending before the Reference Court, could only delay the proceedings. Unfortunately, this is the Scheme of the Act and what is contemplated under the Act, law being required to be applied *"as is"* and not on the basis of what *"it ought to be"*.

21.3. The Reference Court deriving its jurisdiction only under the reference, without a reference being made, a third party's claim cannot be considered by the Reference Court. It is always available to the Law Commission of India to suggest appropriate amendments to tide over this anomaly and for the Parliament/Legislature to accept it. Until then, this Court will be bound to apply the law as is, which would require a circuitous procedure to be adopted by the third parties in approaching the Collector/Deputy Commissioner for reference of the dispute and

not to seek for impleadment in the already pending reference.

21.4. In that view of the matter, I am of the considered opinion that the impugned orders allowing the impleading application, are not legally sustainable and are required to be set aside.

22. **Answer to Point No.4**: **What order**?

22.1. In view of my above reasoning, I pass the following:

ORDER

i) W.P.No.200812/2024 is allowed, a certiorari is issued, the impugned order dated 06.02.2024 passed on I.A.No.2 in LAC No.107/2018 pending on the file of Additional District and Sessions Judge, Bidar at Annexure-H is quashed.

ii) W.P.No.201485/2024 is allowed, a certiorari is issued, the impugned order

dated 27.05.2024 passed on I.A. under Order I Rule 10(2) of CPC in LAC No.61/2022 pending on the file of Additional District and Sessions Judge, Bidar at Annexure-F is quashed.

iii) W.P.No.201486/2024 is allowed, a certiorari is issued, the impugned order dated 27.05.2024 passed on I.A. under Order I Rule 10 of CPC in LAC No.60/2022 pending on the file of Additional District and Sessions Judge, Bidar at Annexure-G is quashed.

iv) Liberty is reserved to the impleading applicants in all the above matters to approach the Deputy Commissioner seeking for reference of their respective claims to the Reference Court and if a reference is made by the Deputy Commissioner, it shall be made to the very same reference court before whom the other references are pending, the Reference Court is directed to consider all

the aspects together and pass necessary orders.

v) In the event of the reference court disposing of the pending references before a reference is made on the claim of the impleading applicants or the collector not referring the claims of the impleading applicants to the reference court, liberty is reserved to the impleading applicants to initiate such proceedings as are permissible, in which event the impleading applicants will have the benefit of Section 14 of the Limitation Act, as regards the time spent in the above proceedings from the time of filing of the impleading application.

SD/-
(SURAJ GOVINDARAJ)
JUDGE

PRS, List No.: 19 Sl No.: 1