

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

**WEDNESDAY, THE FOURTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY FOUR**

PRESENT

THE HONOURABLE SMT JUSTICE K. SUJANA

CIVIL REVISION PETITION NO: 3035 OF 2019

Petition under Section 115 of CPC against the Order dated 29-10-2019 made in E.P. No. 04 of 2018 in O.P. No. 512 of 1992 on the file of the Court of the III Additional District Judge, Karimnagar.

Between:

The State through the Land Acquisition Officer, L.A Unit - VI, Collectorate Complex, Karimnagar

...Petitioner / Appellant

AND

1. Appidi Laxma Reddy, S/o. Pulla Reddy (died) her L.R. Appidi Narayana Reddy, S/o. Laxma Reddy, Age 78 years, Occ. Retired Teacher, R/o. Yaswada Village, Presently at Kharkhanagadda, Karimnagar Proper
2. Appidi Radhamma, W/o. Laxma Reddy (died) her L.R. Appidi Narayana Reddy, S/o. Laxma Reddy, Age 78 years, Occ. Retired Teacher, R/o. Yaswada Village, Presently at Kharkhanagadda, Karimnagar Proper

...Respondents / Petitioners

IA NO: 1 OF 2019

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to grant interim stay all further proceedings pursuant to the order in EP.No.4/2018 in OP.No.512/1992, dt.29/10/2019 on the file of the Court of III Additional District Judge, Karimnagar, pending the above CRP.

Counsel for the Petitioner : GP for Arbitration

Counsel for the Respondents : Sri B Arjun Rao

The Court made the following Order :

THE HONOURABLE SMT JUSTICE K. SUJANA

CIVIL REVISION PETITION NO.3035 OF 2019

ORDER :

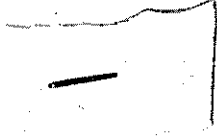
This Civil Revision Petition is filed against the order of the trial Court dated 29.10.2019 in EP.No.04 of 2018 in OP.No.512 of 1992, wherein, the petition is filed for realization of the amount due under the decree dated 19.01.2004 in OP.No.512 of 1992 by way of attachment of movables.

2. The brief facts of the case are that respondents filed Execution Petition for realization of the amount due under the decree dated 19.01.2004 in OP.No.512 of 1992 by way of attachment of movables, and an amount of Rs.13,60,833/- was paid by the petitioner-judgment debtor (for short J.Dr.) earlier on 22.11.2016 and the earlier Execution Petition No.23 of 2005 was closed recording part satisfaction of the decree, still the petitioner has to pay Rs.34,97,009/-, that the petitioner has to pay additional market value @ 12% per annum from 13.10.1977 to 21.05.1979 on the value of the

land, that it was not claimed earlier, therefore, the Execution Petition is filed.

3. The petitioner-J.Dr. has filed a counter contending that half of the decretal amount was deposited in the Court along with Form-D showing the amount of Rs.9,33,528/- by cheque dated 31.03.2006, on which petitioners withdrew the same, and that the High Court dismissed their appeal vide L.A.A.S.No.1429 of 2005. Thereafter, proposals were sent to the Special Collector, Hyderabad for sanction of balance of decretal amount i.e., half of the amount, that it was sanctioned accordingly i.e., Rs.13,60,823/- vide proceedings dated 18.08.2016, and the said amount was deposited on 08.09.2016 and the correct amount due i.e., balance to be paid was shown in the calculation statement in the counter itself, and no decretal amount is due, therefore, prayed the Court to dismiss the petition.

4. During the enquiry in the Execution Petition, respondent got examined as PW.1 and the petitioner got examined a Special Officer as RW.1. After considering the evidence on record and after hearing both sides, Execution Petition was allowed and attachment order was issued by the trial Court



for realization of decretal amount. Aggrieved by the said order, the present petition is filed.

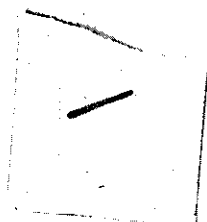
5. The contention of the petitioner is that the trial Court grossly erred in allowing the execution petition for additional amount by way of Additional Market Value at 12% per annum under Section 23(1-A) of Land Acquisition Act, 1894 (for short 'the Act, 1894') from the date of publication of 4(1) notification to the date of award of Collector or date of taking possession of land, whichever is earlier. The trial Court incorrectly agreed with the calculations of the D.hrs. as per fresh calculation memo dated 22.10.2019 and allowed the execution petition, and that Section 23(1-A) was not in existence as on the date of 4(1) notification, and the same was incorporated under the amendment dated 24.09.1984 and the same would be applicable only to the proceedings pending on or after 30.04.1982, and as the award was passed on 21.05.1979, the question of application on Section 23(1-A) to the Land Acquisition OP and grant of 12% Additional Market Value from 13.10.1977 to 21.05.1979 does not arise, as such, the orders passed by the trial Court are



unsustainable and liable to be set aside, therefore, requested the Court to set aside the order of the trial Court.

6. On the other hand, learned counsel for the respondents opposed the Civil Revision Petition stating that in some cases the Government paid the amount under Section 23(1-A) and Section 23(1-A) is applicable to the pending references, and that the above said reference was pending before the Court on the date of amendment. Therefore, Section 23(1-A) is applicable to the present case and there is no illegality in the order of the trial Court and there are no merits in the petition and requested the Court to dismiss the petition.

7. Having regard to the submissions made by both the parties and on perusal of the material on record, the only question to be decided in this case is whether benefit of Section 23(1-A) of the Act i.e., grant of additional market value is applicable to the O.P. filed by the respondents herein. In the present case, acquisition notice was issued, and the award was passed on 21.05.1979, therefore, the question of application under Section 23(1-A) of the Act and grant of 12% Additional Market Value from 13.10.1977 to 21.05.1979 does not arise and Section 23(1-A) of the Act was incorporated



under the amendment dated 24.09.1984 and the same would be applicable only to the proceedings pending on or before 30.04.1982.

8. In this regard, learned counsel for the respondents herein relied on a Judgment of Hon'ble Supreme Court in '**K.S.Paripoornan vs. State of Kerala**¹, wherein, it was held that :

"104. What remains to be considered is if the benefit under Section 23(1-A) could be extended even in those cases where appeals were pending in the High Court or Supreme Court against the award made by the Court under Section 18 of the Act. The word 'Court' used in Section 23(1-A) appears to refer to the Court under Section 18, only, as the Court under this provision has been empowered to award additional compensation on such market value as is determined by taking into consideration Section 23 of the Act. The word 'Court' in Section 23(1 A) does not appear to have been used in the wider sense as including the court of appeal or the Court under Article 136 of the Constitution of India. In Zora Singh⁷ it was observed rightly by this Court that the legislature's intention was to award additional compensation only at the stage of award made by the Collector or the Court under Section 18. The construction of the word 'Court' in the wider sense would not be in

¹ 1994 (5) SCC 593

consonance with the purpose and objective of the legislation the background of which has been traced in detail. It is thus clear that the benefit of Section 23(1-A) is available only in those cases where the matter was pending for determination of compensation at the stage of reference under Section 18 in respect of acquisitions which had started even before 1982.

9. In the above Para, it is observed that Section 23(1-A) is available only in those cases where the matter was pending for determination of compensation at the stage of reference under Section 18 in respect of acquisitions which has started even before 1982. In the present case also, reference was pending as on the date of above said amendment. In the above Judgment, it shows that Section 23(1-A) is available in every case where the matter is pending for determination of compensation. Therefore, the provision can be applied to every case where reference was pending before the Court under Section 18 and additional compensation is payable by invoking the 1984 amendment either by the High Court or Hon'ble Supreme Court and additional compensation under Section 23(1-A) is also payable by the Court in cases where the proceedings are pending and award was not been made by the Collector on or before 30.04.1982. Similarly, other land owner is entitled to additional compensation where the

land acquisition proceedings were initiated as per old Act, and where the award made by the Collector before 1984.

10. Learned counsel for the petitioner also relied on the same Judgment and also filed calculation memo, whereas, the respondents filed additional documents showing that in similarly situated cases Government paid amount of additional market value and he filed vide proceedings No.B/479/2023 and the acquisition notice is of 02.03.1977 for acquisition of land in Karimnagar District and the Government paid total amount, as such, they cannot differentiate this respondent as the land was acquired under the same notification.

11. In similarly situated case, Government already deposited additional market value vide LAAS.No.1429 of 2005 which was heard by this Court, wherein, the Land Acquisition Officer after conducting enquiry, passed award on 21.05.1979. Therefore, there is no illegality in the order of the trial Court allowing the Execution Petition and considering the additional market value under Section 23(1-A) of the Act, as the said benefit is applicable pending reference matters on the date of amendment, as such, the petition is liable to be dismissed.

12. In the result, this Civil Revision Petition is dismissed.

Consequently, Miscellaneous petitions if any, are closed.

No costs.

Sd/- MOHD. ISMAIL
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The III Additional District Judge, Karimnagar
2. Two CCs to the GP for Arbitration, High Court for the State of Telangana, Hyderabad [OUT]
3. One CC to Sri B Arjun Rao, Advocate [OPUC]
4. Two CD Copies

VA/gh

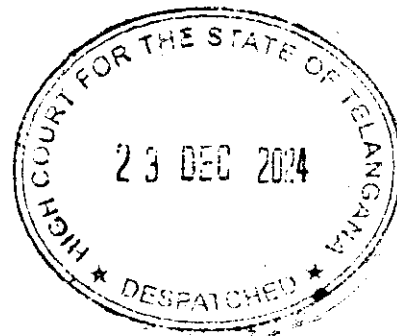
PS

HIGH COURT

DATED:04/12/2024

ORDER

CRP.No.3035 of 2019



DISMISSING THE CRP

Cooper's
Fr
19/12/24