

**(1994) 08 AP CK 0019**

**In the Andhra Pradesh High Court**

**Case No :** Writ Petition No's. 6345 and 6450 of 1990

Adusumalli Parvathi and Another

APPELLANT

Vs

The Special Tahsildar and The Land Acquisition Officer,  
Revenue Division

RESPONDENT

**Date of Decision :** 10-08-1994

**Acts Referred:**

Land Acquisition Act, 1894 — Section 18, 30

**Citation :** (1994) 3 ALT 114

**Hon'ble Judges :** B. Subhashan Reddy, J

**Bench :** Single Bench

**Advocate :** J. Chamanthi, J.V. Prasad and G. Suvarna Kumari, for the Appellant;  
R. Subba Rao, SC for A.P.I.I.C., for the Respondent

**Final Decision :** Allowed

## Judgement

B. Subhashan Reddy, J.—These two writ petitions arise under the Land Acquisition Act, 1894. An extent of Ac. 11-93 cents in S.No. 222/1 situated at Agarampudi Gram Panchayat, Visakhapatnam district was acquired by the respondent for a public purpose. Both the petitioners claim 1/6th share out of the above extent of land on the ground that they have purchased the same from one B. Narayana Murthy and others through a registered sale deed dated 25-1-1994. This acquisition is covered by the Amendment Act (Central Act 68/1984) as the draft notification u/s 4(1) of the Act was published on 2-2-1985 and the award has been passed on 22-4-1988. Since there were rival claims as against the claims made by the petitioners, the matter was referred to the civil Court u/s 30 of the Act. In these writ petitions the relief prayed for is to refer the matter to the civil Court u/s 18 of the Act for enhancement of the compensation amount as the petitioners are aggrieved by the fixation of the market value at Rs. 30,000/ - per acre and in fact they claim much more on yardage basis. As the reference sought for by the petitioners by way of application on 9-4-1990 has not been allowed by the respondent, these writ petitions have been filed seeking a

mandamus.

2. Ms. G. Suvarna Kumari, learned Counsel representing Mr. J.V. Prasad, learned Counsel for the petitioners, strenuously contended that the petitioners were not at all aware of the land acquisition proceedings, that no notice u/s 12(2) of the Act was served on them, that they came to know of the same only in the third week of March, 1990, that inspite of the fact that they have sought for the copy of the award the same was not furnished to them and that the application filed seeking reference on 9-4-1990 ought to have been referred to the civil Court by the respondent herein and as such mandamus should be issued. She relies on the judgments in Smt. Laleemma @ Lalithamma and Others Vs. The Tahsildar-cum-Land Acquisition Officer, . and State of Punjab Vs. Mst. Qaisar Jehan Begum and Another, .

3. After perusing the pleadings in the writ petition and counter, what crystalises is that the acquisition was made and draft notification was issued on the aforesaid date and after complying with the formalities award was passed on 22-4-1988. It is admitted in the counter that the copy of the award has not been furnished to the petitioners. It is also admitted in the counter that the award notice u/s 12(2) of the Act has not been served on the petitioners. On the other hand it is pleaded in the counter that application u/s 18 of the Act is premature. That part of the pleading is worth extracting and it is hereby extracted:

"Further it is submitted that as regards referring the matter u/s 18, ordinarily the question arises only if the petitioners' claim is proved and title is established in his favour and if he is entitled for compensation. In this case the petitioners title is under civil dispute and the compensation to be awarded has not yet been adjudicated, the question of referring u/s 18 for enhanced compensation to the writ petitioner might be premature. However the question of referring the matter u/s 18 will certainly be considered as per rules inforce."

The further pleading with regard to Section 12(2) notice is also pertinent:

"In this case it is submitted that the writ petitioner has not yet been served with a notice u/s 12(2) due to non-adjudication of civil rights."

Admittedly the petitioners were not present when the award was passed. They were also not served with notices u/s 12(2) of the Act. It is stated that they came to know about passing of the award only in the third week of March, 1990 and they have filed petition on 9-4-1990 seeking reference u/s 18 of the Act. With regard to the knowledge as stated supra there is no controversy. With respect to filing application on 9-4-1990 seeking reference, it is admitted by the respondent that he had received the same on 11-4-1990. But the respondent's contention that the petitioners were not entitled to notice u/s 12(2) of the Act is untenable as every person who is interested and has filed a claim is entitled for a notice u/s 12(2) of the Act whether the compensation is awarded in his favour or not. Further even if the compensation is not awarded and the matter is referred to civil Court u/s 30 of the Act on the ground of existence of dispute and the

need for adjudication of the rights by the civil Court. The party need not wait for a reference u/s 18 till the dispute is resolved by the civil Court. In fact regardless of such a reference of a dispute for adjudication u/s 30 of the Act, reference application has to be entertained u/s 18 of the Act. As the petitioners filed application seeking reference u/s 18 of the Act in time, the Land Acquisition Officer is bound to refer the same to the civil Court. The Land Acquisition Officer has got no jurisdiction to stall the said Section 18 reference application till the dispute is resolved by the civil Court u/s 30 of the Act. Once the application u/s 18 of the Act is filed and the same is found to be in time, there is no other alternative for the Land Acquisition Officer except referring the matter u/s 18 of the Act to the civil Court regardless of the fact of existence of a dispute and pendency of the same u/s 30 of the Act.

4. In the circumstances, I direct the respondent to refer the applications made by the petitioners on 9-4-90 to the civil Court u/s 18 of the Land Acquisition Act for determination of proper compensation. This exercise shall be completed within a period of two months from the date of receipt of this order. The writ petitions are accordingly allowed. No costs.