

(1969) 04 KAR CK 0006

In the Karnataka High Court

Case No : Civil Revision Petition No. 1707 of 1967

Basalingappa Gowda and Others

APPELLANT

Vs

Nagamma and Another

RESPONDENT

Date of Decision : 16-04-1969

Acts Referred:

Land Acquisition Act, 1894 — Section 18, 30

Citation : AIR 1969 Kar 313 : (1969) 1 MysLJ 613

Hon'ble Judges : A. Narayana Pai, J

Bench : Single Bench

Judgement

1. After making an award fixing compensation payable in respect of 5 acres and 36 guntas of wet land in survey No. 2 of Amachi village, Hosanager Taluk, the Special Land Acquisition Officer made a reference to the Court of the Civil Judge at Shimoga under Sections 18 and 30 of the Land Acquisition Act. Before the said officer the person in whose name the Khata of the land stood, viz, Basalingappa Gowda claimed that the entire compensation should be given to him, the sons said that they were also entitled to a share. No documents were produced by either of them, but it was suggested that the relevant documents were filed in some Civil Court in connection with a dispute as to title pending adjudication by that Court. It is this difference of opinion between the father and the sons as to the person entitled to receive the compensation that necessitated a reference to the Court u/s 30 for apportionment.

2. Before the Court, Nagamma W/o Basalingappa Gowda, made an application for being brought on record claiming that her husband and sons have fraudulently made the several claims in respect of this property behind her back, that she having title in the property was the only person entitled to receive the entire compensation and that therefore she should be made a party. The Civil Judge has granted her application and brought her on record as one of the claimants in the reference.

3. The father and the sons have preferred this revision petition contending that

the Court had no jurisdiction to implead Nagamma.

4. The order of the Judge, which is very short, reads:

"Objection filed by claimants. Heard both sides. This applicant in 1. A No. 1 is the wife of the 1st claimant. The claimant No. 1 has claimed that the acquired properties bought by him through his wife. It is challenged by him (her?). So, evidently she is necessary party to this proceeding. Hence I. A. No. 1 is allowed. She is impleaded as Claimant No. 7" (SK).

The reference of a claim through the wife is apparently to what is found stated in the Land Acquisition Officer's statement of reasons for making a reference u/s 30. He has stated there that according to Basalingappa Gowda he had acquired the property through his wife and that he alone was entitled to the compensation. No documents were produced before the Land Acquisition Officer according to his order and what is recorded by him is only an oral statement of Basalingappa Gowda. The khata of the land undoubtedly stands in his sole name.

5. Both, the application as well as the objections filed before the Civil Judge make it clear that the applicant before him Nagamma never appeared before the Land Acquisition Officer and did not figure as a claimant before him either.

6. In these circumstances the question is whether the Civil Judge could properly implead her for the first time in the proceedings before him after reference by the Land Acquisition Officer and go further and describe her as claimant No. 7.

7. It appears to me that the Civil Judge had no such jurisdiction. The jurisdiction of the Court is derived from the reference made by the Land Acquisition Officer u/s 30 of the Act. The existence of a dispute as to apportionment which obliges the Land Acquisition Officer to make a reference u/s 30 should necessarily be a dispute, the disputants in respect of which are before him. He is bound to make a reference because he has no jurisdiction to enquire into title and give a binding decision which only a Civil Court could do.

8. The argument that the disputants need not necessarily be before the Land Acquisition Officer but that if either upon statements of claimants before him or upon some document which comes to his notice he discovers that a person other than a claimant actually before him may have some title or interest in the property which entitles him to whole or the part of the compensation the officer can make a reference u/s 30, cannot, in my opinion, be accepted. If the claimant or claimants before the Land Acquisition Officer ask for the payment of the entire compensation to him or to them in agreed proportion, then the Land Acquisition Officer is bound to make payment to him or to them as the case may be. He has no jurisdiction to withhold payment on the ground that he believes or is in a position to infer that there are other persons who may be interested in the property. If indeed he comes to entertain such an opinion, his immediate duty is to issue notice to them and hear them before proceeding to make his award.

9. The jurisdiction of the Court, as already stated, is a jurisdiction derived from

the reference made under the Statute. It is a special jurisdiction. Although the provisions of the CPC are applied to the same, they apply only to the extent they are not inconsistent with the provisions of the Land Acquisition Act. There is no general jurisdiction, therefore, to bring on record additional parties as a Court may do in the case of an ordinary civil litigation.

10. The above view of the law was taken by the Calcutta High Court in *Mahananda Rao v. Srish Chandra Tewari* 7 Ind Cas 10 (Cal), *Probal Chandra Mukherjee v. Raja Peary Mohun Mukherjee* (1908) 12 CWN 987, and other cases.

11. The contrary view stated in *Mt. Sakalbaso Kuer Vs. Brijendra Singh and Others*, , does not, with respect, appear to me to be quite in accord with the scheme of the Land Acquisition Act. The distinction made between a question as to which person is entitled to payment of compensation, will not, in my opinion, make any difference to the principle. The use of the word "which" clearly indicates a selection between more persons or things than one. The selection, if capable of being made or suggested by the Land Acquisition Officer, could only be a selection between parties before him. His jurisdiction to make a reference is in respect of dispute. If one of the parties to that dispute is not before him, the dispute is not fully within his purview because the idea of dispute is incomplete without a statement of the disputants among whom the dispute arises.

12. I hold that the Civil Judge exceeded his jurisdiction in permitting Nagamma to come on record as an additional party in the reference before him.

13. The Civil Revision Petition is allowed and the order of the Civil Judge permitting Nagamma to come on record is set aside.

14. The parties will bear their own costs.

15. Revision allowed.