

(1990) 07 MP CK 0019

In the Madhya Pradesh High Court

Case No : Miscellaneous Petition No. 2042 of 1985

Bhag Chand Yadav

APPELLANT

Vs

Arbitrator, Hon'ble Shri Justice (Retd.) V.R. Newaskar and
Others

RESPONDENT

Date of Decision : 28-07-1990

Acts Referred:

Requisitioning and Acquisition of Immovable Property Act, 1952 — Section 19, 8(1)

Citation : (1992) ILR (MP) 448 : (1991) 36 MPLJ 16 : (1991) MPLJ 16

Hon'ble Judges : D.M. Dharmadhikari, J; B.C. Varma, J

Bench : Division Bench

Advocate : R.S. Tiwari, for the Appellant; Smt. Indira Nair, for Respondents 2 and 3, for the Respondent

Final Decision : Allowed

Judgement

B.C. Varma, J.

Proceedings were pending before the Arbitrator appointed under the Requisitioning and Acquisition of Immovable Property Act, 1952 (Act No. 30 of 1952) for determination of compensation. The land in question was then held by Darbarilal who figured as claimant in those proceedings. Before, however, award could be pronounced, Darbarilal died. Petitioner then made an application for substitution of his name in place of deceased Darbarilal, claiming title to the land on the basis of a will allegedly executed by Darbarilal in petitioner's favour. At the same time, respondents 7 and 8, Dault Ram Yadav and Shiv Charan Yadav, respectively, made an application for substitution of their names in place of Darbarilal claiming to be the legal representatives of Darbarilal alleging that they have inherited the land by succession. Learned Arbitrator, by an order dated 16-3-1985, pronounced the award and concluded the proceedings without deciding the entitlement of the petitioner vis-a-vis the respondents 7 and 8 to the amount of compensation. It has been observed that the heirs may get their inter se determined in appropriate forum.

Learned counsel for the petitioner says that determination of entitlement to compensation between the petitioner and respondents 7 and 8 inter se should have been made by the Arbitrator himself in terms of Section 8(1)(f) of the Act which reads as under :-

"8. Principles and method of determining compensation. - Where any property is requisitioned or acquired under this Act, there shall be paid compensation the amount of which shall be determined in the manner and in accordance with the principles hereinafter set out, that is to say, -

xxx xxx xxx (f) where there is any dispute as to the person or persons who are entitled to the compensation, the arbitrator shall decide such dispute and if the arbitrator finds that more persons than one are entitled to compensation, he shall apportion the amount thereof amongst such persons;"

A plain reading of this provision indicates that it is imperative for the arbitrator appointed under the Act to decide the entitlement to the compensation whenever more than one persons than one are entitled to such compensation. The duty further enjoined is that if the arbitrator finds that more persons than one are entitled to such compensation, he shall apportion the amount to such persons. Reference was made to Section 19 of the Act which specifically bars the jurisdiction of civil Courts to decide and adjudicate any matter which under the provisions of the Act the arbitrator is empowered ,to decide. That being so, we are of the opinion that the arbitrator committed an error in leaving the matter, i.e., determination of compensation inter se between the petitioner and respondents 7 and 8 undecided and in directing them to get it determined in appropriate forum. Instead, he should himself have decided the rival claims of the petitioner and respondents 7 and 8. If any authority for the proposition is needed, that may be found in the decision in Raja Ram Singh and Others Vs. Kishori Saran Singh and Others,

The petition is, therefore, allowed. The last sentence "the heirs may get their rights inter se determined in appropriate forum" in the impugned award pronounced by the arbitrator is hereby quashed. Instead, a direction shall issue to the arbitrator to decide the claims of the petitioner and respondents 7 and 8 as to the entitlement to the compensation under award. The arbitrator shall issue notice to the parties to appear before him for the proceedings in the light of observations made above. Since respondents 7 and 8 were not represented before us, there shall be no order as to costs. Security amount be refunded to the petitioner.