
(2014) 01 KL CK 0023
In the High Court Of Kerala
Case No : O.P. (C). No. 4658 of 2013

George P. Cherukoth

APPELLANT

Vs

State of Kerala and Others

RESPONDENT

Date of Decision : 06-01-2014

Acts Referred:

Land Acquisition Act, 1894 — Section 18, 30, 54

Citation : (2014) 1 KHC 402 : (2014) 1 KLJ 621

Hon'ble Judges : N.K. Balakrishnan, J

Bench : Single Bench

Advocate : V.V. Surendran and P.A. Harish, Advocate for the Appellant; G. Sreekumar, Laiju C. Stephen (GP) and Rashmi K.V. (SC), Advocate for the Respondent

Final Decision : Dismissed

Judgement

N.K. Balakrishnan. J.

1. This Original Petition is filed to set aside Ext. P5 Order. An application was filed by the petitioner herein before the Reference Court in L.A.R. No. 76/2011 for getting himself impleaded in that matter. That petition was dismissed by the Reference Court holding that impleadment petition is not maintainable. That order is challenged in this petition.

2. This application is strongly opposed by the 3rd respondent, who represent the Association on whose behalf the reference was sought and application was filed before the District Collector. The aforesaid L.A.R. 76/2011 was considered along with 20 other cases. It was stated that evidence was recorded and completed in that case and it was actually posted for judgment. In the meanwhile, a petition was filed by one of the claimants stating that two more documents are to be filed in order to sustain his claim for enhancement of compensation. That petition was allowed and this court directed that the case shall be disposed of by 15.02.2014. Thereafter, this petition was filed by the petitioner herein, who is not a party to

the reference.

3. The learned counsel for the petitioner submits that the 3rd respondent has filed statement before the District Collector seeking reference u/s 18 on behalf of all the parties who, according to the petitioner, are co-owners. The petitioner herein would even contend that the document already produced in court/authority are fraudulent and concocted in order to defraud the court/authority and the members of the Association. All the allegations levelled against the 3rd respondent are strongly opposed by the learned counsel contending that no claimant has come forward stating that the documents were not produced or that the evidence was not properly let in. In fact, after closing the evidence, the case was posted for judgment. However, it was allowed to be re-opened only to produce two more documents and that was the reason this court directed the disposal of L.A.R. by 15.2.2014.

4. Admittedly, this petitioner did not seek reference u/s 18 of the Act. The learned counsel for the petitioner wanted to contend that since reference was made by the 3rd respondent on behalf of all the persons, the petitioner has to be treated as an interested person and so his petition to get himself impleaded is well justified. This submission is strongly resisted by the learned counsel for the 3rd respondent. The learned counsel for the Requisitioning Authority has also opposed the petition stating that adjournment of the case indefinitely would put the Requisitioning Authority to difficulty as they may have to pay interest at a higher rate on the amount of market value/compensation fixed by the reference court.

5. The learned counsel for the 3rd respondent has relied upon various decisions of the apex court. In *K. Kankarathnamma and Others Vs. State of Andhra Pradesh and Others*, it was held that a person who has not made an application before the Land Acquisition Collector, for making a reference u/s 18 or section 30 of the Act, 1894, cannot get himself impleaded directly before the Reference Court.

6. In *Ajjam Linganna and Others Vs. Land Acquisition Officer, Revenue Divisional Officer, Nizamabad and Others*, it was observed by the apex court that it is not open to the parties to apply directly to the Reference Court for impleadment, and to seek enhancement u/s 18 for compensation.

7. In *Prayag Upnivesh Awas Evam Nirman Sahkari Samiti Ltd. Vs. Allahabad Vikas Pradhikaran and Another*, the apex court held:

It is well established that the Reference Court gets jurisdiction only if the matter is referred to it u/s 18 or section 30 of the Act by the Land Acquisition Officer and if 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.

8. In *Shyamali Das Vs. Illa Chowdhry and Others*, the apex court held that the

Reference Court does not have the jurisdiction to entertain any application of pro interesse suo, or in the nature thereof. The Court held:

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 and otherwise of the amount of compensation paid under the award made by the Collector." Thus holding that, "It is not within his domain to entertain any application of pro interesse suo or in the nature thereof."

9. All these decisions were followed by the Hon"ble Supreme Court in a recent decision in Ram Prakash Agarwal and Another v. Gopi Krishan (Dead through L.Rs) and others - C.A. No. 2798, 2799 of 2013 dated 11.04.2013.

10. The decision in The Steel Authority of India Ltd. Vs. State of Kerala and Others, has no application to the facts of this case. That was a case where it was held that the Requisitioning Authority should be regarded as "person" for purpose of participating in proceedings if he or it is interested in the outcome. Here the question is whether the 3rd respondent who has not sought reference u/s 18 can contend that he should be treated as a person, as if he is a claimant, for enhancement of the compensation.

11. The decision in M/s. Neyveli Lignite Corpn. Ltd. Vs. Special Tahsildar (Land Acquisition), Neyveli and others, also has no application to the facts of this case since that was a case where it was held that the beneficiary for whose benefit the land is acquired is to be served with the notice and brought on record at the stage of enquiry by the Collector and reference court u/s 18 or in an appeal u/s 54 as they would be interested to defend the award and that the beneficiary must have a right to challenge the correctness of the award made by the reference court u/s 18. The fact situation in this case is totally different.

12. The decision of the Supreme Court in A. Viswanatha Pillai and others Vs. Special Tahsildar for Land Acquisition No. IV and others, also has no application to the facts of this case since in that case the question was whether in a reference sought for by one of the co-owners, the other co-owners who did not expressly seek reference, are entitled to enhanced compensation pro-rata as per their shares. That was a case where all the four brothers including the appellant before the Supreme Court were entitled to get < share each in respect of the enhanced compensation determined by the reference court. Therefore, that decision also has no application.

13. The reference court has observed that admittedly the petitioner herein did not raise any claim regarding apportionment in the reference case mentioned above. He also had no case that he had appeared before the Land Acquisition Officer or had submitted application for reference u/s 18 of the Act. It was also pointed out that the petitioner did not get himself impleaded in the reference case u/s 30 of the Act for getting apportionment of his share, if any, in respect of

the property. No document what so ever was produced to show that he has got interest over the said properly.

14. The contention that the 3rd respondent did not produce all the documents before the reference court or that the case was not conducted properly has been stoutly denied by the learned counsel appearing for the 3rd respondent. The only idea is to see that the matter protracted for one reason or other. There is no merit in the petition. If the petitioner was not given appropriate share of the amount, his remedy is not to get himself impleaded in this case initiated u/s 18 of the Act. The belated contention advanced by the petitioner that the 3rd respondent has no authority to represent the Association or the individual members, was found unacceptable to the trial court. As such I find no reason to interfere with the impugned order.

In the result, this Original Petition is dismissed.