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**(1992) 07 MP CK 0032**

**In the Madhya Pradesh High Court**

**Case No : C.R. No. 303 of 1989 (I)**

M.P. Electricity Board, Rajgarh (Bisora)

APPELLANT

Vs

Rukminibai and Others

RESPONDENT

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**Date of Decision : 02-07-1992**

**Acts Referred:**

Civil Procedure Code, 1908 (CPC) — Order 1 Rule 10, 115

**Citation : (1992) 1 MPJR 456**

**Hon'ble Judges : A.G. Qureshi, J**

**Bench : Single Bench**

**Advocate : R.S. Garg, for the Appellant; S.L. Choudhary and Mr. S.K. Pawnekar, G.A., for the Respondent**

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## **Judgement**

A.G. Qureshi, J.

The Madhya Pradesh Electricity Board has filed this revision petition u/s 115 CPC, being aggrieved by the Order dated 30-9-89 passed by the Additional Judge to the Court of District Judge, Rajgarh in N.J.C. No. 8 of 1987, rejecting the application of the applicant under Order 1, R 10 CPC.

The brief facts leading to this revision are that certain lands were acquired by the State of M.P. for the benefit of the present applicant M.P. Electricity Board for construction of 132-K.V substation. An award was passed by the Land Acquisition Officer allowing compensation for the land acquired at Rs. 37,776/-. The non-applicants Nos. 1 and 2 filed an application before the Collector Land Acquisition for making a reference for enhancement of the award claiming a sum of Rs. 23,00,000/- as compensation. Thereupon the reference was made by the Collector Land Acquisition to the Court of District Judge, Rajgarh. Thereafter on 27-2-1989 an application under Order 1, R. 10 Code of CPC was filed by the present applicant submitting therein that the lands have been acquired for the benefit of the applicant and if the claim amount is enhanced the burden would be on the present applicant, and therefore, the applicant being a necessary party being a beneficiary under the proceedings, they should be impleaded as party

and allowed to put forward its case before the lower Court. The learned lower Court by the impugned order disallowed the application. Hence this revision petition.

The learned Counsel for the applicant Shri R S Garg has strenuously argued that the learned lower Court has not considered the Supreme Court decision reported in *Himalaya Tiles and Marble (P) Ltd. Vs. Francis Victor Coutinho (dead) by LR's.*, wherein the Supreme Court has clearly held that the person interested would include all persons who may be directly or indirectly interested in the title of the land or in the question of the compensation. As such a Body, Local Authority or Company for whose benefit the land is acquired are the persons interested within the meaning of S. 18 of the Land Acquisition Act. He has also cited another authority of the Supreme Court reported in *Bhimrao, Anna Ingawale and Others Vs. State of Maharashtra*,

On the other hand Shri Chowdhary learned Counsel for the non-applicants Nos. 1 and 2 places reliance on the judgment of the Supreme Court reported in *Santosh Kumar and Others Vs. Central Warehousing Corporation and Another*, wherein the Court has held that a company for whose benefit the land is being acquired cannot challenge the amount of compensation by filing a writ petition in view of the bar contained in S. 50 (2) of the Land Acquisition Act.

After considering the respective arguments of the learned Counsel and perusing the order impugned I find that the learned lower Court has not considered the aforesaid two authorities, but has taken into consideration the commentary on a Book by Shri V.R. Ramchandra, wherein reliance has been placed on the judgment in *Collector of Dacca Vs. Gholam Kuddus Choudhury and Others*, for holding that S. 21 of the Land Acquisition Act restricts the enquiring by the Court to a consideration of the interest of the persons affected by the objection in the reference and any subject matter foreign to the matter before the Collector cannot be raised by any party or third person and he also cannot be added as a party under Order 1, R. 10 CPC. Whereas in the case of *Himalaya Tiles and Marble (P) Ltd. Vs. Francis Victor Coutinho (dead) by LR's.*, The Supreme Court has held as under:

The definition of a "person interested" given in Section 18 is an inclusive definition and must be liberally construed so as to embrace all persons who may be directly or indirectly interested either in the title to the land or in the quantum of compensation. Thus the definition of "person interested" in Section 18 must be construed so as to include a body local authority or a company for whose benefit the land is acquired and who is bound under an agreement to pay the compensation. This view accords with the principles of equity, justice and good conscience.

In view of the aforesaid clear dictum of the Apex Court it is manifest that while defining a "person interested" u/s 18 of the Land Acquisition Act a liberal construction should be adopted so as to include all those persons who may be

interested in the title of the land and the quantum of the compensation directly or indirectly. Therefore, the definition u/s 18 of the Land Acquisition Act of "person interested" should be so construed that a body, local authority or for whose benefit the land is acquired and who is bound under the agreement to pay compensation should be treated as "person interested." It has further been held that as the company is liable to pay the compensation for the land acquired, the company is undoubtedly entitled to appeal before the Court and adduce evidence on the question of quantum of compensation. If a person who has to pay compensation is not heard by the Court he may have to pay a very heavy compensation which, in case he is allowed to appear before the Court he could have satisfied it that the compensation is too heavy having regard to the nature and extend of the land. Such a beneficiary is vitally interested in the matter of compensation to be paid thereon and, therefore, he should be allowed to appear and adduce evidence on the question of quantum of compensation before the Court.

6 Another decision of the Supreme Court is reported in Santosh Kumar and Others Vs. Central Warehousing Corporation and Another, wherein the Supreme Court has held that in view of the scheme of the Act apart fraud, corruption or collusion, the amount of compensation awarded by the Collector u/s 11 may not be questioned in any proceedings either by the Government or by the Company or local authority at whose instance the acquisition is made. S. 50 (2) and S. 25 of the Land Acquisition Act, lead to that inevitable conclusion. When S. 50 (2) expressly bars the company or local authority at whose instance the application is made from demanding a reference u/s 18 notwithstanding that such company or local authority may be allowed to adduce evidence before the Collector and when S. 25 expressly prohibits the Court from reducing the amount of compensation while dealing with the reference u/s 18, it is clearly not permissible for the Company or local authority to invoke the Jurisdiction of the High Court under Article 226 of the Constitution to challenge the amount of compensation awarded by the Collector and have it reduced. On reading both these authorities it is manifest that wherea in the case of Himalaya Tiles and Marble (P) Ltd. v. Francis Victor Conrinho(sic) (Supra) the Supreme Court has taken a view that the definition of "person interested" should be construed liberally so as to embrace all persons who may be directly or indirectly interested either in the title to the land or the quantum of compensation and as such the companies for whose benefit the land is being acquired are the necessary parties and they should be given opportunities to appear before the Court and to show that the compensation demanded by the land owner is excessive; in Santoshkumar's case (Supra) the Supreme Court has held that in view of the provisions contained in S. 50 (2) and 25 of the Land Acquisition Act a company for whose benefit the land is being acquired cannot challenge the award made by the Collector because the amount of award cannot be reduced in view of the provisions contained in S. 25 of the Act and S. 50 (2) bars a company or local authority at whose instance the acquisition is made from demanding a

reference u/s 18 made notwithstanding the fact that the company was allowed to adduce evidence before the Land Acquisition officer.

As such, the view taken by the Supreme Court in Santosh Kumar's case (Supra) is not this that even in a reference u/s 18 made by the Collector at the instance of the landlord seeking enhancement of the compensation awarded by the Collector the company cannot appear. The company, in view of Himalaya Tiles and Marble's case (Supra) is a person interested as defined in S. 18 of the Land Acquisition Act and would include a body, local authority or company for whose benefit the land is acquired. As such the MPEB being a person interested has a right to adduce evidence in rebuttal to the claim of the landlord in respect of the compensation. It is true that the company could not ask for reference from the Collector against the award of the Collector as under the provisions of S 25 of the Land Acquisition Act the award amount could not be reduced and there is a clear bar for the company to seek a reference also under S 50 (2) of the Act, but the bar contained in the aforesaid Section do not extend to company's right to challenge the enhancement of the compensation. What has been decided in Santosh Kumar's case (Supra) is simply this that the company cannot challenge the award made by the Collector in view of the aforementioned two Sections of the Act, but according to Himalaya Tiles and Marble's case (Supra) the company is a person interested and as such has a right to adduce evidence before the Court of reference. As such in my opinion, the learned lower Court has erred in passing the impugned order holding the present applicant disentitled to appear before the Court of reference and to contest the enhancement of the award amount. As the application has been filed at a belated stage a cost should of course be imposed on the applicant for the delay which should be Rs. 250/-.

In the result the revision petition Sled by the applicant is allowed. The order impugned by the Additional Judge to the Court of District Judge, Rajgarh is set aside. Instead the application filed by the present applicant is allowed on a cost of Rs. 250/-. The parties shall appear before the lower Court on 4-9-1991. It is further directed that, in view of the reference being pending for a long time before the lower Court, it be disposed of by the lower Court as expeditiously as possible.