

**(1964) 03 MAD CK 0035**

**In the Madras High Court**

**Case No :** Civil Revision Petition No. 1074 of 1963

Rajamannar and Others

APPELLANT

Vs

The State of Madras and Others

RESPONDENT

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**Date of Decision :** 18-03-1964

**Acts Referred:**

Civil Procedure Code, 1908 (CPC) — Order 1 Rule 10, 151  
Land Acquisition Act, 1894 — Section 18, 19, 20, 21, 22

**Citation :** (1965) ILR (Mad) 310

**Hon'ble Judges :** Ramakrishna, J

**Bench :** Single Bench

**Advocate :** V. Seshadri and G. Viswanathan, for the Appellant; A. Alagiriswami, Government Pleader and M.A Seshadri, for the Respondent

**Final Decision :** Dismissed

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## **Judgement**

Ramakrishna, J.—In certain land acquisition proceedings reference was made by the Collector u/s 18 of the Land Acquisition Act to the

City Civil Court, Madras, for determination of a specific objection, as to the amount of compensation, taken before him by the second Respondent

Pattabhirama Reddiar, who did not accept the award. The Petitioners four in number did not file objection to the award u/s 18 of the Land

Acquisition Act, though they had appeared in the Land Acquisition proceedings at some anterior stage. They claimed in an application filed by

them under Order I, Rule 10, Code of Civil Procedure, and Section 151, CPC before the City Civil Court that the acquired land belonged to an

undivided Joint Hindu family, that they represented one branch of it while Respondents 2 to 6 represented another branch, and that consequently

they should be made parties to the reference u/s 18 of the Land Acquisition Act pending before the City Civil Court, Madras. The lower Court

found that the Petitioners had not proved even on prima facie grounds that they constituted members of a joint family interested in the land in

dispute. Secondly, it adopted the decision of the Andhra Pradesh High Court in Ibrahim v. Land Acquisition Officer ILR (1957) A.P. 816 in which

it was held, that a person who had not filed an application to the Collector for reference u/s 18 of the Land Acquisition Act was not entitled to

ventilate his own grievances against the award in the Civil Court which deals with the reference. The lower Court rejected the application. Against

this decision the present revision petition is filed by the Petitioners.

2. The scheme contained in Part III of the Land Acquisition Act--Sections 18 to 28--provides for the exercise of a special jurisdiction by the Civil

Court, and the scope of this jurisdiction is strictly circumscribed by the Appropriate provisions contained in this part. Section 18 gives the right to a

person interested who has not accepted the award, to state the grounds of his objection, and make a written application within the prescribed time

limit to the Collector, requiring him to refer the subject-matter of his objection to the Civil Court for decision. A person interested has been defined

in Section 3(6) of the Act as including all persons claiming an interest in the compensation and the term also includes a person who is interested in

an easement affecting the land. In making the reference, the Collector is required to give the particulars mentioned in Section 19 of the Act and

among the particulars are included the names of the persons whom he has reason to think are interested in such land. Section 20 requires the Court

to give notice of the hearing of the objection (a) to the Applicant, (b) to all persons interested in the objection except such (if any) of them as have

consented without protest to receive payment of the compensation awarded and (c) if the objection is in regard to the area of the land or to the

amount of the compensation, to the Collector. Section 21 of the Act restricts the scope of the enquiry to a consideration of the interests of the

persons affected by the objection. Section 23 lays down certain principles for determining the amount to compensation. Section 53 says that save

in so far as they may be inconsistent with anything contained in this Act, the provisions of the CPC shall apply to all proceedings before the Court

under this Act. No doubt, Order I, Rule 10, on which the Petitioners have relied, permits the Court at any stage of the proceedings to add as

Plaintiff or Defendant any person whose presence before the Court may be necessary, in order to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the suit. (Section 20 of the Land Acquisition Act specifically gives a list of persons on whom the Court is required to serve a notice before determining the objection.) The jurisdiction of the Civil Court under Part III of the Land Acquisition Act being a special jurisdiction, its powers must be spelt out from the terms of the Land Acquisition Act itself. Section 21 of the Land Acquisition Act specifically confines the scope of the enquiry before the special tribunal to a consideration of the interests of the persons affected by the objection. The question, therefore, for determination is who are the persons affected by the objection raised u/s 18 of the Act. On an a priori reasoning it may be held that all persona interested within the meaning of Section 3(b) of the Land Acquisition Act already referred to, would be affected by the objection, but a careful perusal of the sections in Part III of the Act would show that that is not the meaning intended to be given to the term persons affected by the objection. To find out who are the persons affected by the objection, one can look at Section 20 of the Act which provides for the category of persons to whom notice of the hearing by the Court, is required to be given. They are the Applicant and all persons interested in the objection except such of them as have consented to receive payment of the compensation awarded. In other words, the persons interested in the objection are those who, besides the Applicant, have taken a stand similar to his by supporting his objection before the Collector. Section 20(c) indicates that if the objection is in regard to the area of the land or to the amount of the compensation, the Collector is deemed to be a person affected by the objection and the interests of the Government represented by the Collector would also be within the scope of the enquiry. So the question whether a person is affected by the objection or not, has to be decided by the Civil Court, that is, the Special Tribunal, with reference to the stand taken by him before the Collector, at the time of passing the award, or who has expressed his attitude to the award by filing a written objection before the Collector within the time prescribed in Section 18 of the Act. If, on the other hand, he is a person who has not expressed any objection, but has consented to receive the amount of compensation awarded, he will not be a person affected by the objection. As

pointed out by the Andhra Pradesh High Court in Ibrahim v. Land Acquisition Officer ILR (1957) A.P. 816 a person interested in the objection is

not the same as a person interested in the land; nor does it refer to persons interested in the success of the objection. According to the Andhra

Pradesh High Court the mere fact that a person is brought before the Court as a non-Applicant party does not entitle him to ventilate his own

grievances against the award when he himself has not filed an application to the Collector for a reference u/s 18 of the Act. For the above view, the

Andhra Pradesh High Court followed the decision of this Court in Narayana v. Annapurnamma ILR (1941) Mad. 753 where it has been held that

(i) a party who raised no objection to the apportionment of the compensation made by the Collector must be taken to have accepted the award in

that respect and (ii) under Sections 18, 20 and 21 of the Act all that the Court can deal with, is the objection, which has been referred it, and it

cannot go into a question raised for the first time by a party who had not raised any objection u/s 18 of the Act. The above discussion would show

that on a reference u/s 18, the Court is required to hear only (i) an objection which had been raised before the Collector in accordance with the

formalities prescribed in Section 18, and (ii) the contentions of only such persons who are interested in. the objection. The term person interested

in the objection is not equivalent to a person interested within the meaning of Section 3(b) of the Act, but has to be interpreted with reference to

the stand taken by him in respect of the award, within the time limit prescribed in Section 18, when he is required to elect whether he has accepted

the award or not.

3. Before the lower Court, the decision of the Kerala High Court in State of Travancore-Cochin v. Kuttipparu Amma ILR (1958) Ker. 854 was

referred to. There are certain observations in the course of the judgment, which apparently were relied upon in the lower Court by the Petitioner.

For example there is an observation at page 860, which says:

Where the award is in favour of several persons having no separate and distinct interest in the property acquired, all of them may be said to be

interested in the objection raised by one or more of them to the award made by the Land Acquisition Officer. In such a case the objection may be

deemed to have been made on behalf of all. Similarly, if one of several persons

having only a joint and undivided interest in the property acquired, is competent to represent the interests of all of them, the objection by him to the award and the consequent reference to the District Court would enure to the benefit of all of them. But the position will be entirely different if each of them has a distinct and separate interest in the property acquired and no one of them is entitled in law to represent the others, as in the present case.

4. These observations would appear to indicate that if at the stage of the award there are a group of several persons having only a joint and undivided interest in the property acquired, in such a case the objection made by one person competent to represent the interests of all would

enure for the benefit of all. The lower Court has found on the facts that the Petitioners had not proved that they and Respondents 2 to 6, who were

before the Land Acquisition Officer, constituted a joint family with a common interest. The specific Sections of the Land Acquisition Act in Part III

circumscribe the scope of the enquiry and specify the persons who should be made parties to the enquiry. It is not permissible to go beyond the

terms of these sections, and infer that a person who did not prefer his objection to the award within the time limit prescribed in Section 18, is a

person interested in the objection within the meaning of Section 20(b) of the Act, and therefore, a person affected by the objection within the

meaning of Section 21 of the Act. It will not be permissible to take into account at the enquiry, the representations of persons who have never

applied after the passing of the award within the time-limit fixed by the statute, stating whether they accepted the award or were objecting to it. I,

therefore, confirm the decision of the lower Court and dismiss this petition with costs of Respondents two to six.