

(1991) 06 AP CK 0018

In the Andhra Pradesh High Court

Case No : C.M.P. No. 7436 of 1991 in A.S.S.R. 28352/91

Sivangula Ramaiah and others

APPELLANT

Vs

Revenue Divisional Officer, (RDO), Miryalguda and another

RESPONDENT

Date of Decision : 26-06-1991

Acts Referred:

Citation : AIR 1992 AP 149 : (1991) 3 ALT 408

Hon'ble Judges : M. Ranga Reddy, J;M. Jagannadha Rao, J

Bench : Division Bench

Advocate : Mr. S. Venkata Reddy, for the Appellant; Govt. Pleader for Revenue, for the Respondent

Judgement

Jagannadha Rao, J.—This is an application filed by the appellants in the main appeal, which is yet to be registered, for refund of amount of alleged excess court-fee in a sum of Rs. 3,726/-. In O.P- No. 18/86 which was the subject-matter of decision before the subordinate Judge, Suryapet, compensation was claimed by various claimants in respect of various respective extents, totalling 136 acres and 3 guntas. The learned subordinate Judge granted compensation at Rs. 10,500/- per acre. Some of the claimants have filed this appeal claiming compensation at the rate of Rs. 35,000/- per acre. The appellants filed a memorandum of appeal showing that the value of the appeal as Rs. 16,89,0251 and that Rs. 51,052/- is paid as Court-fee. The annexure filed along with the memorandum of appeal gives the names of the claimants, the extent of land acquired from each claimant, the rate of compensation awarded by the lower court, the amount claimed in the High Court, the difference in the court-fee payable by each claimant. It is on the basis of the said calculation that Rs. 51,052/- was paid as court-fee. Later, on this CM.P. was filed on the basis that the court-fee is to be paid not claimant-wise but on the total amount of compensation taken in a lump sum. The difference would be Rs. 31.726/- and the petitioners seek refund of the said amount.

2. As the matter involved refund of court-fee, we issued notice to the learned

Government Pleader for Revenue. We have heard the submissions of Sri S. Venkata Reddy for the petitioners and of Sri C.V.N. Sastry, learned Government Pleader.

2A. It will be noticed that A. Sambasiva Rao, J. (as he then was) in Re-section 6(3) of Court-fees Act 1956 (2) An WR 58 had occasion to deal with an appeal preferred by the Government. The judgment discloses that in that case separate plots belonging to various claimants were acquired by the State and separate and distinct amounts were awarded to the various claimants towards compensation. There was, however, a single reference and thereafter the civil court awarded enhanced compensation to different claimants with respect to different plots belonging to them. Aggrieved by that decision the State preferred three appeals. However, instead of paying court-fee separately on each item, the State paid court-fee on the basis of the consolidated amount of enhanced compensation. The learned Judge held that court-fee had to be paid separately in the three appeals taking into account the amount awarded to each of the claimants. According to the learned Judge, each claimant's claim constitutes a separate cause of action. It was held that the circumstance that the land belonging to the different claimants were similarly situated did not alter the situation. If the claim of one claimant was rejected or accepted it did not necessarily bind the other claimants. The questions as to whom should compensation be paid and between whom the apportionment of the compensation has to be made, have to be considered separately in respect of each claim. The learned Judge further observed that simply because a single notification, a single award, and a single reference were made, that did not really change the legal nature or character of each claimant's individual cause of action. If any claimant is not satisfied with the compensation awarded by the court, he can prefer independent appeal without joining the other claimants. On that basis the learned Judge held that the Government had to pay court-fee for each item rather than on a consolidated basis.

3. The matter again came up before a Division Bench consisting of K. Madhava Reddy, Acting Chief Justice and K. Jaya-chandra Reddy J. in P. Audinarayana Reddi v. Competent authority 1982 APHC 128. The matter arose under the Requisitioning and Acquisition of immovable property Act. Here the appeal was preferred by the claimants. The court-fee in the appeal was however paid on the consolidated amount. The registry took objection stating that the court-fee should be paid claimant-wise. The said objection was upheld. The Division Bench observed that every appellant did not claim compensation in respect of the entire extent of land awarded and that one appellant has no claim in respect of the extent of land claimed by the other.

4. The question again arose before another Division Bench consisting of Amareshwari and Panduranga Rao, JJ. in RDO Cuddapah v. S. Ramachandraiah 1988 (1) APLJ 398. In that case, the appellant was the Special Deputy Collector. The learned Judges held that when the State was the appellant it could pay court-

fee on the consolidated amount.

5. For the purpose of the present case, we need not go into the question as to whether the said view is in any way different from the view expressed by A. Sambasiva Rao, J. (as he then was). We are only concerned with a case of an appeal by the claimants. In our view, the decision of P. Audinarayana Reddi v. Competent Authority is directly in point and is against the petitioners.

6. The learned counsel for the petitioners however relied upon the following passage from the judgment of Amreswari and Panduranga Rao, JJ. in RDO Cuddapah v. S. Ramachandraiah 1988 (1) APU 398 :

"It is therefore, obvious that court-fee should be paid on the enhanced compensation . In our view the ad valorem court-fee paid by the appellant on the lump-sum amount is correct. It is a different case where the claimant is the appellant as he would be interested only in a portion of the amount. But in so far as the acquiring authority is concerned, the position is altogether different. The subject-matter of the appeal is the enhanced compensation. No separate decrees are given. The amount of entitlement of each claimant is not determined. Hence the court-fee paid on the lump-sum amount is correct."

7. In our view, the above-said paragraph does not run counter to the decision of K. Madhava Reddy, Acting Chief Justice and K. Jayachandra Reddi J. in P. Audinarayana Reddi v. Competent Authority. The Division Bench in RDO Cuddapah v. S. Ramachandraiah was concerned only with an appeal preferred by the State and was not concerned with an appeal preferred by the claimants. The observations in the said judgment to the effect that the subject-matter is the enhancement of compensation, that no separate decrees are given and that the amount of entitlement of each claimant is not determined have to be treated as relevant considerations for permitting the State to pay court-fee on the consolidated amount. But those factors, in our view, are not relevant in an appeal preferred by the claimants.

8. For the aforesaid reasons, the application for refund of alleged excess court-fee is dismissed.

9. Application dismissed.