
(1979) 03 AP CK 0035
In the Andhra Pradesh High Court
Case No : C.R.P. No. 3467 of 1977

Smt. R. Seetharamamma

APPELLANT

Vs

Land Acquisition Officer and others

RESPONDENT

Date of Decision : 06-03-1979

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 1 Rule 10
Land Acquisition Act, 1894 — Section 18, 31

Citation : (1979) 03 AP CK 0035

Hon'ble Judges : A. Sambasiva Rao, C.J

Bench : Single Bench

Advocate : E. Raja Rao, for the Appellant; J. Eswara Prasad, for the Respondent

Judgement

Hon"ble Mr. A. Sambasiva Rao, Chief Justice

1. The learned Subordinate Judge rejected the present revision petition under Order 1. Rule 10 C. P. C. to implead her as one of the respondents in Land Acquisition O.P. 113 of 1972. That O. P. arises out of a reference made by the Land Acquisition Officer u/s 31 of the Land Acquisition Act stating that there was dispute about the ownership of the lands and the compensation awarded thereto. He therefore placed the matter before the Court u/s 31. It is no doubt true that the petitioner did not participate in the actual award proceedings. But the award itself would clearly show that consideration of her rights in the property formed a substantial portion of the award proceedings as well as the award itself. The properties acquired form part of the estate of late Ramakrishnayya. It appears that he had left behind him the petitioner a daughter through his first wife, and children of another daughter through his second wife. His two wives and the second daughter predeceased him. When the acquisition of about Ac. 4-30 cents of land took place, the award proceedings were carried on. One of the sons of the step sister of the petitioner filed O.S. 83 of 1967 on the file of the Subordinate Judge's Court, Khammam which was later transferred to the file of the District Court, Khammam and re-numbered as O.S. 7 of 1972. That was a

suit for partition and it was decreed declaring that the sons of the petitioner's sister were entitled to half share and the petitioner herself was entitled to the other half. The plaintiff who was the son of the step-sister filed A.S. 112 of 1977 in this Court which is pending. The properties acquired by the Government are part and parcel of the suit properties.

2. In the award enquiry, three persons appeared. The first of them is Venkatappachary and he claimed that he and his brother Satyanarayanachary were entitled to half share and that the present petitioner and her step sister were entitled to the other half. The second person Sharabachary was the power of attorney holder of Radhakrishna Murthy, son of the petitioner. He claimed that Radhakrishna Murthy has been adopted by Ramakrishnayya and in consequence, was entitled to the entire property. The third person was Swarachary, son of the step-sister of the petitioner who claimed that he and his three brothers, being sons of Nagasuramma, were entitled to a half share and that the present petitioner being the other daughter of the deceased Ramakrishnayya, was entitled to the other half share in the light of these variegated claims, the Land Acquisition Officer said that there was dispute about the ownership of the land and consequently about compensation to be awarded. Thereupon, he deposited the compensation amount and referred the matter to the Court u/s 31. At this juncture, I must refer to another circumstance. The petitioner filed an application before the Land Acquisition Officer on 2nd July, 1977 that she was very much interested in the award proceedings. The Officer informed her that there was dispute about the ownership of the lands and that therefore, the matter was referred to the Sub-Court for determination of the shares among the interested persons. The Officer concluded the communication dated 17-7-1977 by saying: She is therefore directed to approach Court of law and seek redressal.

Upon this she filed an application under Order 1, Rule 10 C.P.C. to implead her in the O.P. u/s 31. This was the petition which was dismissed by the Lower Court relying on Municipality, Nalgonda Vs. Hakeem Mohiuddin and Others, The facts of that case were venally different from the present case. There, Jaganmohan Reddy, J, (as he then was) and Chandrasekhara Sastry, J. decided that a person who had not appeared before the Taluqdar and whose name was not mentioned in the reference could not be added as party in the proceedings before the Court. That case has no application because the claimant who claimed before the Court and not only appear in the award enquiry but also there was no reference at all to him. But in the present case, the entire dispute is as to which person is entitled to what share in the acquired property. I have already referred to the substance of the award proceedings and the reference made by the Land Acquisition Officer. The dispute was whether the present petitioner was entitled to 1/3rd share or half share but there was consensus that the petitioner was entitled to a share in the acquired property. Since the petitioner was entitled to a share in the properties and some other persons claimed varying rights and shares in the properties, the Land Acquisition Officer referred the matter to the Court u/s 31. It is thus manifest that even if the petitioner was not formally a

party to the original petition u/s 31, her rights must be adjudicated upon the order to apportion the compensation amount. Without going that, there cannot be any apportionment. It is therefore essential that she be made a party to the proceedings. Her rights are very much in question before the award enquiry and in the reference. She is certainly a person interested within the meaning of Section 31. She is also a person interested within the meaning of Section 18. Though she was not a participant in the award enquiry, her rights were actually canvassed therein and because of that, reference u/s 31 became necessary. In these circumstances, I hold that it is not only essential in the interests of justice but also in the right of the language of Sections 18 and 31 that she be brought on record as a party to the original proceedings.

In the result, I set aside the order of the Lower Court, allow the application under Order 1, Rule 10 C.P.C. made by the petitioner and direct that she be added as party to the petition. In the circumstances of the case, I direct the parties to bear their own costs.