
(1966) 10 MAD CK 0003

In the Madras High Court

Case No : Civil Revision Petition No. 1860 of 1963

Syed Mohamed Badralsa

APPELLANT

Vs

Revenue Divisional Officer and Others

RESPONDENT

Date of Decision : 07-10-1966

Acts Referred:

Constitution of India, 1950 — Article 226

Land Acquisition Act, 1894 — Section 18, 31, 31(2)

Citation : (1968) ILR (Mad) 436

Hon'ble Judges : Veeraswami, J

Bench : Single Bench

Advocate : P. Sharfuddin, for the Appellant; K. Venkatasami, for V. Ramaswami, Additional Government Pleader and C.A. Mohamed Ibrahim, for the Respondent

Final Decision : Dismissed

Judgement

Veeraswami, J.—This petition is directed against an order of the First Additional Subordinate Judge Madurai, dismissing an application by

the Petitioners to direct the Revenue Divisional Officer, Madurai to deposit a certain sum of money representing compensation awarded in land

acquisition proceedings with the usual solatium into the Court to which a reference " had been made u/s 18 of the Land Acquisition Act (I of

1894). The Court below thought that it had no power to do so.

2. It seems to me that the Court below was right in its conclusion. It is no doubt true that where there is a dispute as to the title to receive the

compensation, or as to the apportionment of it, the Land Acquisition Officer or the Collector, as the case may be, shall deposit the amount of the

compensation in the Court to which a reference u/s 18 would be submitted. There was in this case such a dispute before the Land Acquisition

Officer. Nevertheless, for reasons not obvious to this Court, the amount of compensation had been disbursed by the Land Acquisition Officer to

the second Respondent. The reference u/s 18 has been made at the instance of the Petitioners. In fact, they had to come to this Court under Article

226 of the Constitution in order to compel such a reference. Pending the reference, as I said, the Petitioners applied to the Court below for an

order directing the Land Acquisition Officer to deposit the compensation amount as required by Section 31 (2).

3. There is not the slightest doubt that the Land Acquisition Officer in spite of the mandatory provision, namely Section 31 (2), disbursed the

amount in disobedience of the, direction contained in that provision. But the question is whether the Court to which a references been made u/s 18

has jurisdiction to compel the Land Acquisition Officer to deposit the amount in Court. On that question, it is clear the jurisdiction of the Court

below has to be determined entirely in terms of Section 18. That section enables the Court only to determine questions relating to the measurement

of the land, the quantum of compensation, the persons to whom the compensation is payable or the apportionment thereof among the persons

interested. Those strictly are the limits of the jurisdiction of the Court to which a reference has been made under that section. It is obvious,

therefore, that the Court below while acting u/s 18 will have no jurisdiction to call upon the Revenue Divisional Officer to deposit the amount,

though such officer, as I said, in disobedience of Section 31 (2) has improperly disbursed the compensation, ignoring the fact that there was a

dispute as to who among the claimants was entitled to receive it.

4. Mr. Sharfuddin for the Petitioners contends that the Court below could well have ordered the Land Acquisition Officer to make the deposit. In

support he invites reference to The Deputy Collector, Cocanada v. The Maharaja of Pittapur ILR (1925) Mad. 519 and Chikkanna v. Perumal

ILR (1940) Mad. 791. In the first case all that was decided was that if on a reference u/s 18 the Court directed the Government to pay any

portion of the compensation to a specified person, that would not call for any interference. But in the course of the judgment, Wallace and

Madhavan Nair JJ, pointed out at page 522:

We think that Government was bound, under the provisions of the Land

Acquisition Act, to have ready in the District Court the amount awarded by the Referring officer, for distribution according to the decision of the District Court. If the District Court had in a proper reference increased the amount of compensation, Government is bound to pay into Court the amount of increased compensation. The principle is not altered when an apportionment of the compensation amount is increased, and if the Referring officer had obeyed, Section 31, the necessary money would have been there. It is not right" that Government should throw on a party, whose property it has compulsorily acquired, the risk and burden of recovering the compensation from some one else to whom Government has wrongfully paid it.

5. I respectfully agree with these observations, as indeed I am bound by them. But this decision is no authority for the proposition that where

Section 31 (2) has not been complied with, the Court to which a reference u/s 18 has been made can compel the Government to deposit. But this

is not to say that in exercise of its jurisdiction u/s 18 the Court below cannot proceed to decide as to which of the claimants will be entitled to the

compensation. If and when a decision is come to by the Court below that a claimant other than the one to whom payment has already been made

is entitled to receive the compensation, whether the person who is so entitled to receive can compel the Government to deposit the amount, and if

so, through what means, does not call for decision at this stage. It is not as if in such a contingency the Petitioners will be without a remedy and

they should be compelled to a suit to recover the amount from the Government. The Petitioners fail now because the court below while acting u/s

18 and before it comes to a conclusion on the reference will have no jurisdiction to compel the Land Acquisition officer to deposit the

compensation amount.

6. The petition is dismissed, but in the circumstances with no costs.