
(1973) 02 MAD CK 0014
In the Madras High Court
Case No : Appeal S.R. No. 47776 of 1971

Velappa Gounder

APPELLANT

Vs

Nachimuthu Gounder and Others

RESPONDENT

Date of Decision : 28-02-1973

Acts Referred:

Land Acquisition Act, 1894 — Section 18, 30, 31, 54

Citation : AIR 1973 Mad 449 : (1973) 86 LW 193 : (1973) 1 MLJ 465

Hon'ble Judges : Gokulakrishnan, J

Bench : Single Bench

Judgement

1. This is a reference from the office as to whether the appeal is maintainable in this court against the order passed in C. C. 89 of 1970 on the file

of the Subordinate Judge, Erode. The said order was passed by the Subordinate Judge on a reference made under S. 30 of the Land Acquisition

Act to apportion the compensation amount awarded to the claimants. The amount involved in the reference is Rs. 494.99. As per Section 54 of

the Land Acquisition Act an appeal shall lie in any proceedings under that Act to the High Court from an award or from any part of an award of

the court. Thus, it is clear from this section that the appeal intended is from an award or from any part of the award passed by the Court. In A.M.

Chengalvaroya Chetty Vs. The Collector of Madras and Others, a Bench of this court rejecting the contention that a civil revision petition lies held

that only an appeal lies against an order of a court rejecting a reference made by the Collector under Sections 18 and 31 of the Land Acquisition

Act. But as regards the question whether the same can be construed as an aware, the Bench has simply stated that if it is not an aware it has to be

construed only as a decree and as such an appeal will lie to such forum where

such appeal can be maintained. In that decision, the question as to whether an appeal lies or a revision lies has been discussed, but the question as to whether the reference concerned in that case will amount to an award or any part of the award coming u/s 54 of the Land Acquisition Act has not been decided.

2. It is clear from Section 54 of the Land Acquisition Act that the High Court can entertain an appeal only if the decision arises out of an award or

any part of an award. But in this case, the reference made to the court is one u/s 30 of the Land Acquisition Act for apportioning the compensation

amount, when the same was disputed by the various parties. As per the decision in A.M. Chengalvaroya Chetty Vs. The Collector of Madras and

Others, , referred to above there is no difficulty in construing the order passed under such a reference as a decree, coming within the definition of

the said term in the Civil Procedure Code. If it is a decree, the proper forum will be the court which has jurisdiction to entertain such appeals.

3. As far as the present case is concerned according to the valuation, only the District Court has the appellate jurisdiction and as such the appeal

has to be presented before the District Court and not before this court. Since there was a genuine doubt as to whether the appeal has to be

preferred in this court as per Section 54 of the Land Acquisition Act or not the appellant has preferred the appeal in this court and has taken time

for having the matter decided as to whether the appeal can be entertained or not. Since I am of the view that the appeal has to be presented before

the District Court the papers will be returned to the appellant herein for purposes of presenting the same before the proper forum, namely, the

District Court East Coimbatore. The time taken by the appellant here to have the matter decided in this court need not run against him in calculating

the period of limitation for the purpose of filing the appeal before the District Court.

4. The appellant is given a week's time from the date of the receipt of papers by him to present the appeal before the District Court, East

Coimbatore.

5. Order accordingly.