

(1992) 02 KL CK 0011
In the High Court Of Kerala
Case No : C.R.P. No. 694 of 1991

Victoria Xavier and Others

APPELLANT

Vs

The Greater Cochin Development Authority and Another

RESPONDENT

Date of Decision : 28-02-1992

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 1 Rule 9, 151
Land Acquisition Act, 1894 — Section 18, 50(2)

Citation : (1992) 2 ILR (Ker) 603

Hon'ble Judges : T.V. Ramakrishnan, J;K. John Mathew, J

Bench : Division Bench

Advocate : T.V. Ananthan, for the Appellant; Abdul Gafoor and Govt. Pleader, for the Respondent

Judgement

Ramakrishnan, J.—The two revision petitions are coming up before us on a reference by a learned single Judge. The question arising for decision can be formulated thus : In a case where the provisions of the Land Acquisition Act 1 of 1894 (hereinafter referred to as "the Act") are invoked for acquiring land at the cost of any fund controlled or managed by a local authority or of any company, whether such local authority or company is entitled to be impleaded as a party to the proceedings pending before a court on a reference u/s 18 of the Act by virtue of Section 50(2) of the Act or u/s 151 of the Code of Civil Procedure?

2. Facts necessary for considering the question of law arising in the revisions can be stated thus: State of Kerala, the second respondent in both the revisions acquired certain properties belonging to the revision petitioners at the request of the Greater Cochin Development Authority (GCD A), the first respondent in the two revisions, for the purpose of its Town Planning Scheme. Admittedly GCDA is a local authority as defined under the Act. Dissatisfied with the amount of compensation awarded, petitioners sought for a reference u/s 18 of the Act. Accordingly, two separate references were made to the Court which were numbered as L.A.Rs. 274 and 275 of 1990 before the Additional Sub Judge,

Cochin. In the above two reference cases, GCDA filed two interlocutory applications, I.A. Nos. 1021 and 1507 of 1990 u/s 50(2) of the Act and u/s 151 of the CPC with a prayer to implead it as an additional respondent in the two references. Revision petitioners alone opposed the prayer. After considering the objections raised by the petitioners, the learned Sub Judge overruled the objections and allowed the I.As. by a common order which is under challenge in these revisions.

3. Learned counsel for the petitioners, Shri T. V. Ananthan, submitted that in the scheme of the Act, the local authority or company at whose instance the acquisition proceedings are initiated by the Government under the Act (for short "the beneficiary") has no locus standi to get impleaded in the proceedings either before the Collector or before the court. Such beneficiary is not a "person interested" as defined under the Act. The dispute regarding the quantum of compensation which is the subject matter of the references under Sections 18 and 80 of the Act (corresponding to Sections 20 and 32 of the repealed Kerala Land Acquisition Act See *Moosa v. Special Tahsildar* 1990 (2) KLT 887) are disputes between the owner of the land and the State or among the persons interested in receiving the compensation. No notice is contemplated to be given to the beneficiary of the acquisition in any of the proceedings under the Act. They are "wayfarers" or "man in the street" as they were described in *Mani v. Premier Tyres Ltd.* 1963 KLT 628 as far as the enquiry before the Collector and the court is concerned. The right of such beneficiary under the Act is strictly confined to the right conferred on them u/s 50(2) of the Act and no more. Neither the provisions u/s 151, CPC nor Order 1 Rule 10(2), CPC can be invoked by it for getting itself impleaded in the proceedings as an additional party. It has been consistently held by all the High Courts including this Court that the beneficiary cannot file an appeal as of right and can file an appeal only after obtaining sanction for filing the same from the appellate court. The only right conferred on the beneficiary is to appear and adduce evidence for the purpose of determining the compensation and as such it cannot be impleaded as an *eo nomine* party to the proceedings or to submit pleadings or cross-examine the witnesses or advance arguments in the proceedings as if it is a full-fledged party to the proceedings. The principle underlying the provisions of the Act is that the Government is acquiring land on behalf and for the benefit of the beneficiary and State is expected to take care of the interest of the beneficiary and therefore, there is identity of interest between them. When State which is bound to protect the interest of the beneficiaries of the acquisition to the proceedings the beneficiary cannot also be allowed to be a party to the proceedings driving the claimants to the necessity of fighting the cause against two opponents at the same time. If beneficiary is also impleaded invoking Order 1, Rule 10(2), CPC, that would in effect defeat the scheme of the provisions in the Act. Section 53 of the Act makes the provisions of CPC applicable only in so far as they may not be inconsistent with anything contained in the Act. Section 50(2) is a provision inconsistent with Order 1, Rule 10(2) CPC and as such Order 1, Rule 10(2), CPC

may not be available for the beneficiary to get impleaded in the proceedings. In support of the above propositions the learned counsel for the petitioners has relied upon the following decisions : AIR 1930 64 (Privy Council)); Municipal Corporation of the City of Ahmedabad v. Chandulal Shamaldas Patel); Himalayan Tile and Marble (Pvt.) Ltd. Vs. Francis V. Coutinho and Others,) The Andhra Pradesh Agricultural University, Rajendranagar Vs. Mahmoodunnisa Begum and Another,); Indo Swiss Time Limited Vs. Umrao and Others, ; Santosh Kumar and Others Vs. Central Warehousing Corporation and Another,); M.P. State Co-operative Oilseed Growers Federation, Seoni Malwa Vs. State of Madhya Pradesh and Others,); Neyveli Lignite Corporation Ltd. Vs. Rangaswamy and Others, ; The Tamil Nadu State Housing Board Vs. Sangama Nadar and others,); Sakthigopal Regulated Market Committee v. Brundaban Chandra Hota (AIR 1991 Orissa 252) and Gorakhpur Development Authority Gorakhpur Vs. District Judge, Gorakhpur and others,). Thus it was argued that the order under challenge whereby the first respondent is allowed to be impleaded as an additional party is illegal and liable to be set aside.

4. Learned counsel for the first respondent Sri Abdul Gaffoor has, on the other hand, contended that Section 50(2) read with Section 52 of the Act enables the beneficiary to get itself impleaded as a proper party in the proceedings before the Court as a person interested in the determination of the quantum of compensation. In cases where Section 50(1) of the Act applies, the beneficiary of such acquisition is really the person vitally interested in the determination of the compensation and it is liable to be impleaded before the court as a proper party if not as a necessary party. The right specifically conferred on the beneficiary u/s 50(2) of the Act is a right which an eo nomine party to the proceeding normally gets and as such it has to be held that Section 50(2) of the Act itself is sufficient to cloth the beneficiaries, a right to get themselves impleaded in the proceedings so as to effectively participate in the enquiry before court; disputing the claim for enhancement of the compensation awarded by the Collector. The Supreme Court has in Himalaya Tiles and Marble (P) Ltd. Vs. Francis Victor Coutinho (dead) by LR"s.,) categorically held that the beneficiary for whom acquisition is made by the State under the Act is a "person interested" and as such it may not be proper to treat such beneficiary as "wayfarers" or "man in the street" as they were described in Mam v. Premier Tyres Ltd. 1963 KLT 628). All the earlier decisions rendered on that basis and holding that the beneficiaries cannot be impleaded as parties to the proceedings before court under the Act should be considered as wrongly decided. The learned counsel also relied upon the Full Bench decision of this Court reported in Thevaril Ranees Sidhan and Another Vs. The Special Tahsildar for Land Acquisition and Others,) and the decisions reported in Padmanabha Menon v. Bhaskara Menon, 1963 KLT 595) and Kalarikkal Lakshmikutty Amma Vs. Kankath Vettolil Kanhirapally Velappa Nair and Another, , which were approved in the Full Bench case, to contend for the position that this Court has allowed impleadment of the beneficiaries to reference proceedings under the Act in spite of the fact that they were not parties before

the Land Acquisition Officer. It was also contended on the basis of the above decisions that Order 1, Rule 10(2) C.P.C. is attracted to all proceedings before Court in the light of Section 53 of the Act and as such the said provision can also be availed of by the beneficiary for getting itself impleaded in the proceedings as a proper party. In any view of the case the beneficiary is entitled to be impleaded at least as a party entitled to participate in the proceedings in exercise of the right conferred on it u/s 50(2) of the Act. There is no justification for taking a restricted view that the right conferred u/s 50(2) of the Act is a limited right of producing the available evidence with a view to assist the State, the only necessary party to the proceedings and to watch the proceedings thereafter. What has been conferred u/s 50(2) of the Act on the beneficiary is an effective opportunity of opposing the claim for enhancement of the compensation in all possible ways and as such the right conferred u/s 50(2) of the Act must be treated as an co-extensive to that of an eo nomine party as far as the determination of compensation is concerned. In fact the only party really interested in opposing the enhancement of the compensation in cases where Section 50(1) of the Act applies is the beneficiary and there is thus no justification for holding that the right conferred u/s 50(2) of the Act to appear and adduce evidence in the enquiry for determination of the quantum of compensation, does not include the right to cross-examine the witnesses and to put forward arguments in substantiation of its stand that the compensation awarded is not liable to be enhanced. As a party entitled to participate in the proceedings the right conferred must be held to be co-extensive to that of a full-fledged party to the proceedings.

5. Although, counsel on both sides have advanced detailed arguments on the questions whether a beneficiary of an acquisition proceeding is a "person interested" as defined in the Act and whether such a beneficiary can as a person interested in the proceedings invoke the provisions contained in Order 1, Rule 10(2), C.P.C. forgetting impleaded as a proper party in the proceedings we do not consider it necessary to decide the said question finally in these revisions since the OCDA has not specifically invoked the said provision while filing the impleading application in question. As the application for impleadment were filed specifically u/s 50(2) of the Act and Section 151, C.P.C., we propose to consider only the limited question whether the relief prayed for can be allowed under the said two provisions of law. As such the question whether the beneficiary is a "person interested" as defined in the Act is also not very material for deciding the specific point arising in these revisions.

6. However, in this connection we would like to refer to some relevant aspects of the above questions which may have a bearing on the question to be decided in these revisions. Thus on the question whether a beneficiary is a "person interested" as defined in the Act and as used in Section 18(1) of the Act, the apex Court has in the *Himalaya Tiles and Marble (P) Ltd. Vs. Francis Victor Coutinho (dead) by LR's.,)*, observed thus (at page 1121):

"Thus, the preponderance of judicial opinion seems to favour the view that the definition of "person interested" must be liberally construed so as to include a body, local authority, or a company for whose benefit the land is acquired and who is bound under an agreement to pay the compensation. In our opinion, this view accords with the principles of equity, justice and good conscience. How can it be said that a person for whose benefit the land is acquired and who is to pay the compensation is not a person interested even though its stake may be extremely vital? For instance, the land acquisition proceedings may be held to be invalid and thus a person concerned is completely deprived of the benefit which is proposed to be given to him. Similarly, if such a person is not heard by the Collector or a Court, he may have to pay a very heavy compensation which, in case he is allowed to appear before a Court, he could have satisfied it that the compensation was far too heavy having regard to the nature and extent of the land. We are, therefore, unable to agree with the view taken by the Orissa High Court or even by the Calcutta High Court that a company, local authority or a person for whose benefit the land is acquired is not an interested person. We are satisfied that such a person is vitally interested both in the title to the property as also in the compensation to be paid thereafter because both these factors concern its future course of action and if decided against him, seriously prejudice his rights....."

In the light of the above statement of law made by the Supreme Court the view expressed by the various High Courts earlier, to the effect that the beneficiary is not a "person interested" cannot be considered as correct. We may further point out that some of the High Courts have been after considering the above quoted observations of the Supreme Court, taken the view that the beneficiary cannot be considered as a "person interested" under the Act, relying upon the view expressed by the Supreme Court itself in the two other decisions of co-equal strength, namely, *Municipal Corporation of the City of Ahmedabad v. Chandulal Shamaldas Patel*) and *Santosh Kumar and Others Vs. Central Warehousing Corporation and Another*,). Thus the Full Bench decisions of Punjab & Haryana, Madhya Pradesh and Madras High Courts have taken the view that the beneficiary is not a "person interested" as defined in the Act; even after the *Himalaya Tiles and Marble (P) Ltd. Vs. Francis Victor Coutinho (dead) by LR's.*,). On the question whether the beneficiary can invoke Order 1, Rule 10(2), C.P.C. for the purpose of getting impleaded as a proper party to the proceedings before a Court of law also, the Full Bench decisions of Punjab & Haryana, Madhya Pradesh, Madras and Patna High Courts have answered in the negative and have preferred to take the view that the beneficiary has only the limited right specifically conferred u/s 50(2) of the Act.

7. As we are called upon to decide the scope and effect of Section 50(2) of the Act we may usefully refer to the relevant passage from the Select Committee Report wherein the Committee has indicated the reasons for and the circumstances in which Sub-section (2) of Section 50 was incorporated in the Act thus :

"To Section 50 we have added at the desire of the Government of Bombay a clause permitting the appearance before the Collector or the Court of the representative of a local authority or company on whose behalf land is being acquired. We cannot however agree that the authority should be permitted to appeal from the Collector's award. We have not given to Government itself the power to make this appeal because the Collector is only the agent of the Government in the acquisition of land; his action is taken under the rules laid down for his guidance which include a preliminary valuation and these rules ordinarily provide and ought to provide, that when the Collector finds cause to anticipate that his eventual award will substantially exceed his provisional estimate, he shall stall all proceedings till he receives the further instructions of higher authority. No local authority or company is compelled to proceed under the Land Acquisition Act. If it can procure land more cheaply by private negotiation, it is certainly at liberty to do so but if elects to set in motion the very special power given to the Government for public objects, it can expect no higher privileges and powers than those given to Government itself."

The above passage would indicate that except for the specific restriction incorporated in the proviso to the section, no other bar was intended to be placed on the beneficiary in the matter of participation in the enquiry before the Collector and the Court. It is also significant to note that it was at the request of the Government of Bombay an acquiring authority under the Act that such a right was conferred on the beneficiary. Presumably the acquiring authority wanted the beneficiary of the proceedings to be given the right to adduce evidence in the enquiry regarding the determination of the quantum of compensation with a view to shift the burden of defending the claim for enhancement on to the beneficiary which is to bear the enhanced liability if enhancement is ordered ultimately.

8. Considering the scope and effect of Section 50 of the Act, the Calcutta High Court in *Municipal Corporation of Pabna v. Jogendra Narain*. Raikut, (13 CWN 116) has observed thus :

"A company or corporation for whose benefits land may be acquired by the Collector is not a necessary party in the proceeding and there can be no doubt that no proceeding can properly go on in the absence of the Secretary of State for India in Council. u/s 58 of the Act a company or local authority for whose benefit the acquisition is made may appear and adduce evidence for the purpose of determining the compensation. But this is in the nature of the addition of a party simply for the purpose of watching the proceedings or assisting the Secretary of the State. Such a company or local authority has not the power to ask for a reference u/s 18 of the Act, neither does the Act give it the right of appeal".

Either following the above decision or on an independent consideration of the provisions of the Act, various High Courts have taken more or less similar view regarding the scope and effect of Section 50 of the Act and have held that "the

local authority or the company can be allowed to participate in to a reference u/s 18 of the Act only for the purpose of watching the proceedings or assisting the Secretary of the State". We find very strong and emphatic reiterations of the said principle in a decision rendered by a Full Bench of the Andhra Pradesh High Court in *The Andhra Pradesh Agricultural University, Rajendranagar Vs. Mahmoodunnisa Begum and Another*, and still later in the Full Bench decision of the Madras High Court in *Neyveli Lignite Corporation Ltd. Vs. Rangaswamy and Others*, In fact the Madras decision has referred to the Andhra Pradesh decision and has fully approved it as laying down the correct legal position on the point. In the Andhra decision which relied on the decisions of the Madras and Orissa High Courts reported in *Akhilakali Hayatalli Vs. The State of Bombay*,) and *State of Orissa Vs. Amarandra Pratap Singh and Another*, respectively, it was pointed out that u/s 50(2) the beneficiary cannot be permitted to take part in the arguments in the case and that if the name of the beneficiary is shown in the cause title of the case even inadvertently it must be ignored. Relying upon the above decisions and pointing out the scheme of the various provisions in the Act which nowhere requires notice to be given to the beneficiaries in any of the proceedings before the Collector or the Court, it was strongly contended that the prayer for impleadment of the beneficiary as an additional party to the proceedings cannot be allowed in law. It was submitted that the beneficiary can be allowed to appear before the Court only for the purpose of producing any available evidence in the case and to assist the State who is the only necessary party to the proceedings and thereafter to watch the proceedings going on between the State on the one side and the Claimants on the other. They cannot be allowed to submit any pleadings in the case or cross-examine the witnesses or put forward arguments in substantiation of their case based upon the evidence in the case. It is this aspect of the matter which requires to be considered elaborately by us in these revisions and that can be decided only on a proper interpretation of the provisions in the Section bearing in mind the reasons for which the provisions was incorporated in the Act and the object sought to be achieved thereby.

9. No decision of this Court was pointed out by the counsel on either side wherein the scope and effect of Section 50(2) of the Act has been specifically considered with a view to delineate the scope and ambit of the right expressly conferred on the beneficiary by Section 50(2) of the Act. In *Neyveli Lignite Corporation Ltd. Vs. Rangaswamy and Others*, the Full Bench dealing with the scope of Section 50(2) of the Act refrained from going into the final details of the expression "appear" and contended by observing that "the word appear is introduced for the purpose of giving an opportunity to the company or focal authority to appear by themselves and adduce evidence on their own right". The learned Judges however went on to observe further that "This does not mean that they are made as parties to the proceedings before the Civil Court. That conclusion is inescapable from the above referred proviso to the said sub-sections (Proviso to Section 50(2))." In the recent Division Bench decision

reported in Gorakhpur Development Authority Gorakhpur Vs. District Judge, Gorakhpur and others, S. P. Jeevan Reddy, C.J. (as he then was) has on a consideration of the provisions in Section 50(2) of the Act stated the legal position thus (at page All 249):

".....A beneficiary (local authority or company for whose benefit the land is being acquired and who is ultimately liable to bear the burden of paying the compensation) cannot apply for impleading, nor can it be impleaded as a party-respondent under Order 1, Rule 10, C.P.C. read with Section 53 of the Land Acquisition Act. Its right is only the one recognised, by Section 50(2) of the Act. It can appear in such a reference and adduce evidence in support of its case and also to contradict the evidence produced by the claimants. It can also cross-examine the witnesses produced by the claimants. It cannot either ask for a reference u/s 18, nor can it file an appeal against the judgment and award of the Civil Court as a matter of right u/s 54 of the Act. It can file such an appeal with the leave of the Court and, as observed hereinbefore (See F. B. decision of this Court in Gaurdham 1980 All CJ 345) (supra). Such leave should, normally, be granted to a beneficiary, who has appeared and participated in the reference proceedings. Even where it did not so appear and participate, it may well be entitled to apply for such leave and the Court should consider such a request sympathetically for the simple reason that the ultimate burden of paying the compensation falls upon such beneficiary".

Observing so, the learned Judge upheld the order rejecting the application for impleadment filed by the beneficiary in that case clarifying the legal position that the beneficiary can avail of the right provided by Section 50(2) as explained by him in his judgment. 10. We would in this connection like to refer to the decision of the Punjab & Haryana High Court reported in The Hindustan Sanitary-ware and Industries Ltd. and Another Vs. The State of Haryana and Others, That was a case where the beneficiaries of the acquisition proceedings in that case filed applications to permit them to appear and adduce evidence and show that there should be no increase in the compensation which had been awarded by the Collector. Those applications were opposed by the landowners. The applications were dismissed by the learned Judge hearing the reference case. While disposing of the revisions filed against the order dismissing the applications, Pandit, J. has observed thus (at page 59):

"....I do not see any reason as to why under these circumstances they should not be permitted to lead evidence and say that the compensation amount awarded by the Collector was adequate and that there should not be any further increase in it as demanded by the landowners. Learned counsel for the respondents could not point out on that principle of law the request of the two companies could be resisted. No authority even was cited by him that under similar circumstances any Court had ever held that the persons, who had actually to pay the compensation, could not be allowed to lead evidence and say that the compensation amount be enhanced. It is noteworthy that by virtue of Section 53

of the Land Acquisition Act, the provisions of the CPC applied to all proceedings before the learned Additional District Judge and he had, therefore, ample powers under Order 1, Rule 10, Code of Civil Procedure, also to implead the said two companies as parties".

Finding so, the learned Judge quashed the orders of dismissal challenged in the revisions. It is very relevant to note in this case that the Supreme Court has in *Himalaya Tiles and Marble (P) Ltd. Vs. Francis Victor Coutinho (dead) by LR's.*, specifically referred to the above decision and quoted with approval part of the passage extracted above, from the judgment of Pandit, J., though the actual point which arose for consideration before the Supreme Court in that decision was only about the right of a beneficiary to file an appeal against the award passed by a Court which is against its interests.

11. Turning to the construction of the words and phrases used in Sub-section (2) of Section 50 of the Act especially the words and phrases "appear" and "adduce" evidence used in the sub-section, we may first observe that they are words and phrases used with reference to a proceeding pending before a quasi-judicial authority and a regular Court for the purpose of determining the quantum of compensation payable under the Act. The avowed object of incorporation of Section 50(2) into the Act is to give the beneficiary an effective opportunity to participate in the enquiry before the Collector or the Court for the purpose of determining the quantum of compensation so as to avoid the prejudice which, it is likely to take place in the absence of such an opportunity. There is nothing in Section 50 or in any other provisions contained in the Act to indicate that what is intended to be conferred on the beneficiary as far as the enquiry pending before the Collector or Court is concerned is not a full and effective opportunity. There is nothing in the scheme of the Act to suggest that a beneficiary in exercise of the right u/s 50(2) of the Act is not entitled to exercise all the rights which an eo nomine party to the proceeding is entitled to exercise while participating in the enquiry to be conducted in the proceedings for the purpose of determining the quantum of compensation. Thus if an eo nomine party is entitled to submit a pleading putting forth his contention in regard to the quantum of compensation and adduce evidence and substantiate such contentions by arguments, there is no reason to hold that a beneficiary exercising its rights u/s 50(2) of the Act may not be entitled to act in the same manner while participating in the enquiry but can only adduce evidence and assist the State in prosecuting the proceedings and watch the same as a dumb spectator without any right to cross-examine the witnesses and put forward arguments in substantiation of its stand regarding the quantum of compensation. Such a mute appearance and adducing of evidence may not afford an effective opportunity to the beneficiary to protect its interest in the matter. Having regard to the context in which the right to "appear and adduce evidence" is conferred on the beneficiary and the object sought to be achieved by such conferment of opportunity on the beneficiary we are of the view that the right conferred u/s 50(2) of the Act should be held to be similar to that of an eo nomine party to the proceedings and no difference in the content or

extent of the right of participation in the enquiry in the proceedings was intended by the legislature while conferring the right u/s 50(2) of the Act. However we may make it clear that we are not going into the question whether the beneficiary is entitled to file an appeal against the award by the reference Court as of right.

12. We find that the meaning or implication of the words and phrases used in the sub-section especially the words "appear" and "adduce" evidence would also support the conclusion reached by us as indicated above. The meaning of the words "appear" given in Ramanath Aiyar's Law Lexicon (Reprint Edition, 1987) is noteworthy and is as follows:

"Appear. To enter or make appearance; to stand in presence, as parties or advocates before a Court; XXX.....XXX.....XXX.....XXX When used to designate the act of any person with reference to an action pending, the word "appear" means to come into Court as a party to the suit. (Bouvier L. Dict.) "submission to the jurisdiction of the Court, in obedience, or in answer to process. Cyc. 502"

Black's Law Dictionary (Fifth Edition) gives the meaning of the word "evidence" thus :

idence. Any species of proof, or probative matter, legally presented at the trial of an issue, by the act of the parties and through the medium of witnesses, records, documents, exhibits, concrete objects, etc., for the purpose inducing belief in the minds of the Court or jury as to their contention. XXX.....XXX.....XXX.....XXX

All the means by which any alleged matter of fact, the truth of which is submitted to investigation, is established or disproved.

Any matter of fact, the effect, tendency, or design of which is to produce in the mind a persuasion of the existence or non-existence of some matter of fact. That which demonstrate, makes clear, or ascertains the truth of the very fact or point in issue, either on the one side or on the other. That which tends to produce conviction in the mind as to existence of a fact. The means sanctioned by law of ascertaining in a judicial proceeding the truth respecting a question of fact.

As a part of procedure "evidence" signifies those rules of law whereby it is determined what testimony should be admitted and what should be rejected in each case, and what is the weight to be given to the testimony admitted."

13. The different shades of meaning of the words "appear" and "evidence" quoted above would clearly show that they are words of wide import sufficient to indicate compendiously the diverse legal actions which a party to the proceeding is entitled to adopt in the course of enquiry or investigation before a Court of law for establishing the issue arising for consideration in the proceedings with reference to which a person is given the right to "appear" and "adduce evidence". Having regard to the different shades of meaning indicated above, the

right to adduce evidence would take in a right to cross-examine the witnesses, adopting all legal means to get at all possible and relevant evidentiary materials and putting forward arguments analysing the entire evidence on record so as to produce the required conviction in the mind of the Court. Thus in essence the right to adduce evidence would comprehend the entire gamut of proceedings after the submission of the pleadings and the ultimate trial and conclusion of the proceedings. As per the section, it is with reference to a proceeding pending before the Collector or the Court that the beneficiary is permitted to appear and that too for a given purpose, namely, the determination of the amount of compensation. In the circumstances, the only reasonable conclusion possible is that the beneficiary who chooses to exercise the power u/s 50(2) of the Act must be held to be entitled to appear as a party to the proceedings with full right to have recourse to all legal actions which an eo nomine party to the proceeding can take in the course of the enquiry to be conducted in the proceedings for the purpose stated in the sub-section itself.

14. In the light of the above discussion, we have no hesitation in holding that in exercise of the rights conferred u/s 50(2) of the Act, the beneficiary is entitled to do all that an eo nomine party is entitled to do with reference to the proceeding pending before the Collector or the Court as the case may be, for the purpose stated in the sub-section. Thus we hold that the beneficiary who seeks permission to intervene u/s 50(2) of the Act is entitled to be impleaded as an intervenor in the proceedings u/s 50(2) of the Act. We further hold that such an intervenor beneficiary will be entitled to take all legal steps which any other full-fledged party to the proceeding is entitled to take such as submission of pleadings detailing the points to be considered during the trial of the issues arising for consideration, adducing of every kind of evidence by adopting all legal means such as cross-examination, serving of interrogatories etc., and advancing arguments in substantiation of its points and demolition of the case advanced by the claimants based upon the entire evidence available on record for the purposes stated in the sub-section.

15. Before concluding, we may also deal with one other point raised by the learned counsel for the respondents. Relying upon the decisions of this Court reported in *Thevaril Ranee Sidhan and Another Vs. The Special Tahsildar for Land Acquisition and Others*, , *Padmanabha Menon v. Bhaskara Menon*, 1963 KLT 595, and *Kalarikkal Lakshmikutty Amma Vs. Kankath Vettolil Kanhirapally Velappa Nair and Another*,), the learned counsel for the respondents has contended that this Court has held that Order 1, Rule 10(2), C.P.C. is applicable to proceedings pending before Court on reference u/s 18 of the Act and as such the first respondent is entitled to be impleaded as a proper party under Order 1, Rule 10(2), C.P.C. Since in this case, we have decided not to consider the question whether the GCD A is entitled to be impleaded as a proper party under Order 1, Rule 10(2), C.P.C., we are not considering the question as to how far the said decision would help the first respondent to get itself impleaded in the proceedings as a proper party under Order 1, Rule 10(2), C.P.C. However, we

may point out that all the decisions relied upon by the learned counsel are cases where the reference proceedings were for apportionment of the compensation which stands on a different footing from the references for enhancement of compensation as indicated by this Court itself in *Ranee Sidhan v. Special Tahsildar for Land Acquisition*, 1974 KLT 724.

16. In the light of our findings that the GCDA is entitled to be impleaded as an intervenor u/s 50(2) of the Act, the question of impleading u/s 151, C.P.C. does not arise for consideration.

17. In the result, we do not find any reason to interfere with the order passed by the Court below impleading the GCDA as an additional party to the proceedings except to make it clear that the GCDA is impleaded only as an intervenor in the proceedings u/s 50(2) of the Act and that it will be entitled to exercise all the rights as explained by us above.

Civil Revision Petitions are disposed of as indicated above. No order as to costs.