
(2006) 12 BOM CK 0105
In the Bombay High Court
Case No : Writ Petition No. 1591 of 2006

Vithabai Wahane

APPELLANT

Vs

State of Maharashtra and others

RESPONDENT

Date of Decision : 21-12-2006

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 151
Land Acquisition Act, 1894 — Section 11, 18, 18(1), 20, 21

Citation : (2006) 12 BOM CK 0105

Hon'ble Judges : B.P. Dharmadhikari, J

Bench : Single Bench

Advocate : A.S. Kilor, for the Appellant; A.R. Taiwade, AGP for respondent nos. 1 to 3, G.N. Khanzode, for the Respondent

Final Decision : Allowed

Judgement

B.P. Dharmadhikari, J.—Considering the nature of controversy, Rule is made returnable forthwith and heard finally at the stage of admission itself with the consent of Shri Kilor, learned counsel for the petitioner, Smt. Taiwade, learned AGP for respondents No. 1 to 3 and Shri Khanzode, learned counsel for respondent No. 4.

2. The petitioner is challenging the order dated 29-9-2005 passed by the Joint Civil Judge, Senior Division, Nagpur, in Land Acquisition Case No. 196 of 2000, rejecting her prayer for permission to intervene in Reference proceedings u/s 18 of Land Acquisition Act. The application has been rejected by the Court below on the ground that the presence of intervenor in the proceedings is not necessary and that she is not person interested in the matter. This Court has issued notice on 13-4-2006 and on 24-8-2006, it was agreed that the petition should be decided finally at the stage of admission itself. Accordingly, the matter has been heard on various dates and finally on 20-11-2006.

3. The facts are not much in dispute. The lands in the name of Chintaman Dupare present respondent No. 4 were acquired and compensation amount of

Rs. 9,85,356/- has been received thereafter under protest. The present petitioner and three other persons raised demand before Special Land Acquisition Officer and demanded that payment should not be made to Chintaman alone. It further appears that the parties settled their dispute amicably and received the compensation amount in the name of Chintaman. Chintaman thereafter moved proceedings u/s 18 of the Land Acquisition Act, (hereinafter referred to as the Act) for enhancement of compensation and in that, application came to be filed by the petitioner seeking permission to intervene.

4. The petitioner has stated that the property acquired i.e. Survey No. 107, Area 2.17 Hectare of Mouza Chikhali Nalha was ancestral property and it was never partitioned between them. It is stated that at the time of acquisition, respondent No. 4 was cultivating it with the consent of the petitioner. The petitioner contended that while making reference, name of petitioner ought to have been mentioned by respondent No. 4 but he deliberately did not mention it. She also relied upon an agreement titled as Guarantee Deed executed on 24-12-1999 by respondent No. 4 in her favour and three other persons whereby he undertook to disburse amount of compensation after its receipt in proportion as mentioned thereunder between the parties. It is the case of the petitioner that respondent did not disburse the amount accordingly. It is the case of respondent No. 4 that amount has been disbursed as mentioned thereunder. He has also relied upon deed of relinquishment executed by the petitioner and one Devkabai Mahadeo Patil in his favour.

5. Shri Kilor, learned counsel for the petitioner has contended that the petitioner is real sister of respondent No. 4 and in the agreement of Guarantee executed in 1999, respondent No. 4 has expressly admitted her share. He argues that whether that share is received by the petitioner or not is not relevant for the purposes of present adjudication. He further states that alleged relinquishment deed dated 14-6-1984 is produced by respondent No. 4 for the first time before this Court and the petitioner has filed rejoinder denying its execution. However, he again contends that the said dispute need not be gone into by this Court. He argues that the only question which falls for consideration is whether the petitioner can be said to be person interested so as to enable her to intervene in Land Acquisition Case No. 196 of 2000. He has invited attention of this Court to various provisions of the Act in this respect and also to judgment of the Hon'ble Apex Court in the case of Sunder Lal Vs. Paramsukhdas, , to state that the Court below has erroneously held that the petitioner is not person interested. During reply to arguments advanced by Shri Khanzode, learned counsel for respondent No. 4 and Smt. Taiwade, learned AGP, Shri Kilor, learned counsel for the petitioner has further stated that reliance upon two judgments of learned Single Judges of this Court by respondent No. 4 is misconceived in view of this judgment of the Hon'ble three Judges of Apex Court. He has also invited attention to subsequent judgments in the case of Union of India (UOI) Vs. Sher Singh and Others, and Bihar State Electricity Board Vs. State of Bihar and Others, . It is his argument that the petitioner being a real sister of respondent

No. 4 and property being ancestral, her application ought to have been allowed. He further contends that if view taken by the trial Court is accepted, it would result in multiplicity of litigation.

6. As against this, Shri Khanzode, learned counsel for respondent No. 4 has supported the impugned order. He states that the amount of compensation has been given to the petitioner as per the agreement of Guarantee dated 24-12-1999 between the parties. He further states that in any case the petitioner did relinquish her share in favour of respondent No. 4 and as such her name never appeared in revenue records and therefore, she was not party in proceedings for land acquisition before respondent No. 2 - Special Land Acquisition Officer and hence she cannot become person interested. He argues that if such intervention is allowed, it would widen the otherwise limited scope of reference proceedings. He states that if the petitioner has got any grievance about the non-receipt of compensation amount or about the relinquishment deed, she has to approach competent forum for its ventilation and for consequential relief. He relies upon the judgments of this Court in the case of Raghunath Navde Vs. Pandit Navde and Others, and Govind vs. Savitrabai, reported at 1986 Mh.L.J. 844. He submits that the judgment in Raghunath vs. Pandit Ramchandra (supra) also takes into account the law as settled by the Hon'ble Apex Court in the case of Smt. Ambey Devi Vs. State of Bihar and another, , and hence the other rulings on which Shri Kilor, learned counsel for the petitioner has placed reliance are of no consequence.

7. The learned Assistant Government Pleader appearing for respondents No. 1 to 3 states that the view taken by the Court below is just and proper. She argues that the Special Land Acquisition Officer is not concerned with any title dispute and he has to go by revenue records. She further states that if the petitioner was person interested, she ought to have approached respondent No. 2 in response to various notifications published as per scheme of Land Acquisition Act. She contends that the reference made by respondent No. 4 cannot be allowed to be widened into a dispute inter se between heirs of original land owner. She contends that as there was no such dispute raised before respondent No. 2 at any point of time, respondent No. 1 Collector has not referred any dispute for appointment of compensation to Civil Court. She states that jurisdiction of Civil Court is, therefore, circumscribed by reference made and the effort of the petitioner to expand it cannot be permitted.

8. The perusal of judgment of this Court in Raghunath vs. Pandit Ramchandra, (supra) reveals that this Court (learned Single Judge) has relied upon earlier judgment of this Court in Govind vs. Savitrabai, (supra) and also the judgment of Hon'ble Apex Court in Ambey Devi vs. State of Bihar (supra). It was revision petition and the revision petitioner approached this Court against the order dated 17-11-1989 whereby his claim to half of the enhanced amount of compensation came to be dismissed. The Land Acquisition Officer initially fixed compensation at Rs. 62,259/- and it was paid in joint names of petitioner and respondent No. 1 -

nephew and uncle respectively. Respondent No. 1 thereafter filed reference u/s 18 for enhancement of amount of compensation for total land acquired and in it revision petitioner was not joined as party respondent. Civil Court also did not issue any notice to him. Civil Court had directed payment of 30% solatium and component @ 12% per annum. Thereafter respondent filed Execution Petition for recovery of amount of Rs. 9,20,080.65 and Land Acquisition Officer deposited that amount in Court. At that stage, revision petitioner moved his application and demanded 50% of the amount. This Court in paragraph 6 found that Civil Court gets jurisdiction as a result of reference being made by the Collector in terms of section 18 or 30 of Land Acquisition Act and though proceedings are referred to Civil Court, the procedure as prescribed by CPC will not be applicable when issue of addition of parties under Order 1, Rule 10 of CPC is considered. It is observed that such procedure if followed would be contrary to provisions of Land Acquisition Act. The ruling of this Court and of the Hon''ble Apex Court has been relied upon in support.

9. The perusal of earlier judgment of learned Single Judge of this Court in the case of Govind vs. Savitrabai, shows that there the person claimed to be impleaded in reference u/s 30 before the District Court as person entitled to compensation. In opening paragraph of judgment itself, this Court has mentioned the question as "can the District Court in reference u/s 30 of Land Acquisition Act, 1894, implead a person who claimed to be entitled to compensation awarded in land acquisition proceedings or to part thereof or who claimed to be interested in acquired property, when same persons were not parties before the Collector". From facts it appears that after passing award, the Collector found himself unable to determine who were entitled to compensation and hence referred the dispute to District Court u/s 30 of Land Acquisition Act. During the pendency of dispute, the petitioner before High Court filed application before the District Court praying that he be impleaded as party as the acquired property was joint property in which he also had a right, share and interest. The District Court dismissed that application on the ground that no new party can be added in reference made by Land Acquisition Officer u/s 30 of the Act. After taking review of various judgments, learned Single Judge of this Court has upheld the order of dismissal. In paragraph 7, the learned Single Judge has observed that such person is in fact raising a new dispute which is not covered by terms and reference and therefore he cannot be impleaded.

10. In Raghunath vs. Pandit Ramchandra (supra) of this Court, reliance has also been placed upon the Hon''ble Apex Court judgment in Ambey Devi vs. State of Bihar (supra). In the said case decided by the Division Bench of Hon''ble Apex Court consisting of two Hon''ble Judges, it has been held in paragraph 4 that the procedure prescribed under sections 18 or 30 of Land Acquisition Act is inconsistent with procedure prescribed under Order 1, Rule 10 of Civil Procedure Code. The Order 1, Rule 10 of CPC would apply to implead a necessary party or proper party to effectuate complete adjudication of entire dispute between all necessary or proper parties who may be bound by the decision. It has been held

that such question does not arise in reference proceedings because inconsistent procedure has been prescribed under the Land Acquisition Act. In the facts of said case, it appears that the appellant before the Hon"ble Apex Court had led her claim for V share of compensation in enquiry u/s 11 before the Land Acquisition Act and in award made by the Collector, he apportioned compensation and gave V share to each of the co-owners. Thereafter only one of the co-owners sought reference to Civil Court u/s 18 which was accordingly made. The Court had enhanced compensation and thereafter appellant before the Hon"ble Apex Court filed appeal claiming enhancement of compensation in respect of her land on par with other co-owners. The said claim was rejected by the High Court holding that the appellant had not made any application u/s 18 of the Act after award was made by the Collector. Thereafter the appellant approached the Hon"ble Apex Court. The Hon"ble Apex Court has in paragraph 4 also noticed that the reference sought by co-owner was admittedly in respect of his share only and it was claimed for compensation in specie and was paid towards his "4 share. Such application u/s 18(1) by one of the co-owners could not be treated as made on behalf of co-sharers. In paragraph 3, the Hon"ble Apex Court has noticed that after the compensation is received under protest, the person seeking reference has to apply in writing within limitation objecting to either extent of land, classification, value of land or apportionment of compensation and upon receipts thereof, reference to Civil Court is made. The application for reference has to mention grounds on which the compensation is objected to and valid reference is pre-condition for Civil Court to adjudicate.

11. In this background when the judgment of Apex Court relied upon by Shri Kilor, learned counsel in *Sunderial vs. Paramsukhdas* (supra) (by larger Bench of three Hon"ble Judges) is looked into, the said judgment appears to have taken a different view. In said case, one Sunderial owned certain fields and those fields were acquired and Land Acquisition Officer made award on 30-1-1960 and assessed total compensation at Rs. 26,105.58. It was equally apportioned between Sunderial and Khushalsingh. Sunderial then filed application for reference u/s 18 and claimed more compensation and also contended that Khushalsingh was not a protected tenant and as such he was not entitled to any portion of amount of compensation. Khushalsingh also applied for reference and sought enhancement. The Collector made reference to Civil Court. It appears that Sunderial had filed Civil Suit earlier against Khushalsingh and Civil Court had made reference to Revenue Court for finding out status of Khushalsingh. Sub Divisional Officer, Akola, answered the said reference holding that Khushalsingh was not protected lessee but it was reversed by Deputy Collector in appeal. Against this decision of Deputy Collector, Sunderial filed writ petition before the High Court and it was compromised between Khushalsingh and Sunderial. Under compromise Khushalsingh waived his status as protected lessee and gave no objection for quashing orders of Deputy Collector in his favour. On 11-3-1961, Paramsukhdas filed application in High Court and claimed to be heard. He stated that he had obtained decree against Khushalsingh and started execution

proceedings to recover Rs. 20,013/-. He further stated that amount of Rs. 13,644.27 ordered to be paid to Khushalsingh as his share of compensation was attached by him for satisfaction of decree. He alleged that Khushalsingh and Sunderlal had mala fide entered into an agreement and had filed a compromise. The High Court kept writ petition pending and directed the parties to file their compromise before the Civil Court where reference proceedings were pending. Paramsukhdas then filed application under Order 22, Rule 10 read with section 151 of CPC praying for substituting or adding his name as applicant in both proceedings. The Civil Court held that Paramsukhdas had not approached the Land Acquisition Officer and he was not person interested. This was challenged by Paramsukhdas by filing two revisions before the High Court. The High Court thereafter permitted Paramsukhdas to withdraw his Special Applications. In High Court, preliminary objection was raised to maintainability of revisions at the instance of Paramsukhdas. High Court rejected those objections, however, on merits High Court held that Paramsukhdas was not claiming any interest in the lands themselves but was only claiming an interest in the compensation for the land which had been deposited in the Court for payment to the person concerned and as such was a person interested. The argument before the Hon'ble Apex Court on behalf of Sunderlal was that attaching creditor like Paramsukhdas is not interested in the amount of compensation as compensation but he was interested in getting money belonging to the judgment debtor and therefore he is not entitled to be made party to proceedings u/s 18 of the Act. The Hon'ble Apex Court in paragraph 10 has observed that the definition of person interested in section 3(b) of the Act is inclusive definition and it was not necessary that in order to fall within the definition such person should claim an interest in land which has been acquired. It has been observed that a person becomes a person interested if he claims an interest in compensation to be awarded and hence Paramsukhdas was person interested and can be made party in reference. The Hon'ble Apex Court has also considered the scheme of the Act and in paragraph 11 it has been observed that it would be strange to come to a conclusion that Legislature is keen that a person claiming an interest in compensation should be heard before the land is acquired but is not interested in him after land is acquired. On the contrary, it follows from section 5A(3) that a person claiming an interest in compensation would be one of the person whose interests are meant to be safeguarded. Reference has been made to provisions of section 20 in para 12 and the Hon'ble Apex Court has observed as under:

"A person claiming an interest in compensation would, it seems to us, be a person interested in the objection if the objection is to the amount of compensation or the apportionment of compensation, and if his claim is likely to be affected by the decision on the objection, section 21 restricts the scope of enquiry to a consideration of the interests of the person affected by the objection. But it does not follow from section 21 that there is any restriction on the grounds which can be raised by a person affected by the objection to protect his interests. The restriction that is laid is not to consider the interests of a

person who is not affected by the objection. Section 29 deals with apportionment of compensation, if there is agreement, and section 30 enables the Collector to refer disputes as to apportionment to the Court. From the above discussion it follows that a person claiming an interest in compensation is entitled to be heard under sections 20 and 2] of the Act. The provisions of the Act, including sections 20 and 21, do not prescribe that his claim to an interest in compensation should be "as compensation", as urged by Mr. Desai. This is really a contradictory statement. For, a fortiori, he has no interest in land, and compensation is given for interests in land. He can never claim compensation qua compensation for what he claims is an interest in the compensation to be awarded. This is not to say that a person claiming an interest in compensation may not claim that the compensation awarded for the acquired land is low, if it affects his interests."

12. The Hon"ble larger Bench has observed that Scheme of Land Acquisition Act is that all disputes about the quantum of compensation must be decided by resort to the procedure prescribed by the Act and it is also intended that disputes about the rights of owners to compensation being ancillary to the principal dispute should be decided by the Court to which power is entrusted. Jurisdiction of this Court in this behalf is not restricted to cases of apportionment, but extends to adjudication of dispute as to the person who are entitled to receive compensation and there is nothing in section 30 which excludes a reference to the Court of a dispute raised by a person on whom the title of the owner of land has, since the award, devolved. The above observations made by the Bench of Hon"ble three Judges of the Hon"ble Apex Court in Dr. G.H. Grant Vs. State of Bihar, , are quoted with approval in paragraph 13.

13. In paragraph 19, the Hon"ble Apex Court has concluded that Paramsukhdas was, therefore, clearly a person interested in the objections which were pending before the Court in the references made to it and he was also a person whose interest would be affected by the objections, within section 21. He was, therefore, held entitled to be made a party and order of this High Court was accordingly upheld.

14. Shri Kilor, learned counsel for the petitioner has also made reference to two Division Bench judgments of the Hon"ble Apex Court. In Bihar State Electricity Board vs. State of Bihar, (supra) is the judgment of Hon"ble Two Judges in which it has been held that expression person interested is not restricted to claimants whose title was sought to be divested by compulsory acquisition. In fact earlier judgments of the Hon"ble Apex Court are followed in it. The same view is taken in Union of India vs. Sher Singh (supra). As I am discussing later judgment below in little more details, I am not referring to 1994 judgment here. Both the judgments have taken a view that acquiring body is person interested.

15. In Union of India vs. Sher Singh (supra), the Hon"ble Apex Court has relied upon its earlier judgment in case of Himalaya Tiles and Marble (P) Ltd. Vs. Francis Victor Coutinho (dead) by LR"s., . In the said case, the Hon"ble Apex Court has found that land was being acquired by State Government for National

Security Guard (N.S.G.) as desired by Union of India. During pendency of land owners reference u/s 18, Union of India moved application for getting it impleaded as party respondent stating that its interest would be adversely affected in case of enhancement of rate of compensation. The High Court rejected that application and matter came before the Hon''ble Apex Court. In paragraph 14 of this judgment, the reliance has been placed with approval upon the judgment of Himalayan Tiles and Marbles case (supra). This judgment of Himalayan Tiles and Marbles in terms follows the Larger Bench judgment of the Hon''ble Apex Court in Sunderlal vs. Paramsukhdas (supra). In Union of India vs. Sher Singh (supra) the Hon''ble Bench in paragraph 5 has made reference to Full Bench judgment of Punjab and Haryana High Court in the case of Indo Swiss Time Limited Vs. Umrao and Others, . In the said case, the majority view was that acquiring body could not maintain appeal. The Hon''ble Chief Justice S. S. Sandhawalia (as he then was) however took a view to the contrary and observed that there was no conflict or inconsistency between Order 1, Rule 10 of CPC and section 50(2) of Land Acquisition Act. The two provisions could be construed harmoniously and the provisions of Order 1, Rule 10 of CPC would apply within the confines of section 50(2) and the petitioner-company (Indo Swiss Time Ltd.) was entitled to be impleaded as party thereunder. The Hon''ble Apex Court has accepted and approved the view of the Hon''ble Chief Justice S. S. Sandhawalia, as is apparent from the discussion of paragraph 12 of the report. The majority view was not approved and hence the Full Bench judgment has been overruled. The majority view was that the application under Order 1, Rule 10 of CPC for being impleaded as a party by company for whose benefit lands were being acquired was not legally maintainable.

16. The perusal of judgment of Full Bench of Punjab and Haryana High Court in Indo Swiss Times Ltd. vs. Umrao (supra) reveals that the majority there chose to rely upon view of the Hon''ble Apex Court in case of Municipal Corporation of the City of Ahmedabad v. Chandulal Shamaldas Patel and did not follow the view taken by the Hon''ble Apex Court in the case of Himalayan Tiles and Marbles case. The Chief Justice Sandhawalia held that in case of Municipal Corporation of City of Ahmedabad, the Hon''ble Apex Court passed short order upholding preliminary objection about the maintainability of appeal. The Hon''ble Chief Justice relied upon and followed Himalayan Tiles and Marbles case mentioned above to hold to the contrary and recorded that a company for whose benefit land was acquired can be impleaded as a party in reference proceedings u/s 18 of the Act. It has also been held that if there is direct conflict between two decisions of co-equal Benches, which cannot be reconciled, subordinate Courts have to follow judgments which appear to have stated the law accurately.

17. Himalayan Tiles and Marbles (P) Ltd. vs. Francis Victor Coutinho, (supra) is again the judgment of the Hon''ble Apex Court where Bench was consisting of two Hon''ble Judges. It has been held there that the company for whose benefit land is acquired and who is required to pay compensation under agreement is "a person interested". The Hon''ble Apex Court has in paragraph 9 of this judgment

held as under:

"So far as this aspect of matter is concerned, there appears to be a general consensus of judicial opinion that even though the company may not have any title to the property yet it certainly has a right to appear and put forward its case in the matter of determination of the quantum of compensation. In the case of Sunder Lal vs. Paramsukhdas, this Court observed as follows :

It will be noticed that it is an inclusive definition. It is not necessary that in order to fall within the definition a person should claim an interest in land, which has been acquired. A person becomes a person interested if he claims an interest in compensation to be awarded. It

seems to us that Paramsukhdas is a "person interested" within section 3(b) of the Act because he claims an interest in compensation.....

It seems to us that Paramsukhdas was clearly a person interested in the objections which were pending before the Court in the references made to it and that he was also a person whose interest would be affected by the objections, within section 21. He was accordingly entitled to be made a party."

It is thus clear that the judgment of Larger Bench in case of Sunderlal vs. Paramsukhdas (supra) has been relied upon and accepted by the Hon''ble Division Bench here. It is to be noted that this judgment in case of Himalayan Tiles and Marbles case is also followed by the Hon''ble Apex Court in Bihar State Electricity Board vs. State of Bihar, (supra).

18. It is, therefore, apparent that the definition of "person interested" in section 3(b) of the Act has been given a liberal or wide interpretation by Larger Bench of Hon''ble Apex Court way back since 1968 and that has been followed by the Hon''ble Apex Court in its later judgments mentioned above. When judgment in Ambey Devi vs. State of Bihar, (supra) is considered in this background, it is clear that all these judgments have not been considered by the Hon''ble Judges while holding that there is inconsistency in the procedure prescribed under sections 18 and 30 with procedure prescribed under Order 1, Rule 10 of Civil Procedure Code. Though the Hon''ble Apex Court has made these observations in paragraph 4 thereof, from consideration of this ruling above, it is clear that proceedings under reference were moved within limitation only by one of the co-sharer and that too only in relation to his share. It is obvious that other co-sharer could not have been allowed to join himself in such proceedings by giving go bye to the procedure prescribed u/s 18. I, therefore, find that the judgment of the Hon''ble Apex Court in Sunderlal vs. Paramusukhdas (supra) which is the view of larger Bench of Hon''ble Apex Court settles the law on the point and needs to be followed. The judgment of learned Single Judge of this Court in Govind vs. Savitrabai (supra) again does not consider the view as expressed by the Larger Bench of the Hon''ble Apex Court because the attention of learned Single Judge was not invited to it. It is apparent that had attention been invited to this judgment of larger Bench of Hon''ble Apex Court, result there would have

been different. This Court again in Raghunath vs. Pandit Ramchandra (supra) has taken similar view by following Govind vs. Savitrabai (supra) and Ambey Devi vs. State of Bihar (supra). Again the facts there demonstrate that none of the parties invited attention of this Court to above referred judgment of larger Bench of Hon''ble Apex Court. I feel that had attention been so invited, the result would have been different.

19. The perusal of judgment of larger Bench of the Hon''ble Apex Court mentioned above clearly shows that a person who was not owner of land, who was not party to land acquisition proceedings and who did not seek reference u/s 18 of Land Acquisition Act was permitted to be added as party in proceedings u/s 18 because of the attachment of compensation amount payable to one of the co-sharers by him. The Hon''ble Apex Court has clearly observed that interest of such person in amount of compensation need not exist as it is amount of compensation. It is sufficient that his rights are adversely affected by payment of such amount of compensation to its claimant or otherwise. It has been, therefore, held that interest in amount is sufficient and there is no restriction on the ground which can be raised by a person affected by objection raised in such reference proceedings to protect his interest.

20. In these circumstances, I find that because of claim made by the petitioner as real sister of respondent No. 4 and submission of respondent No. 4 that she relinquished her share on 14-6-1984 by executing relinquishment deed and her further submission that out of natural love and affection, he paid her amount of Rs. 1,12,500/- as mentioned in Guarantee deed/Bond dated 24-12-1999, the petitioner has established that she is "person interested". It is not necessary for this Court to record any finding about the correctness or otherwise of the stand about payment or its receipt or execution of relinquishment deed at this stage. The controversy can be resolved by trial Court while deciding reference on merits.

21. The view taken by the trial Court in the impugned order is, therefore, unsustainable. The same is accordingly quashed and set aside. The application moved by the petitioner before the lower Court is allowed. The Court below to permit the petitioner to be joined as party respondent and to proceed further with adjudication on merits in accordance with law. Writ petition is disposed of accordingly. Rule is made absolute in above terms. However, in the circumstances of the case, there shall be no order as to costs.