

N.K.S.

Before S. S. Kang, J.

NIRANJAN SINGH AND OTHERS, —Petitioners

versus

AMAR SINGH AND OTHERS, —Respondents.

Civil Revision No. 3150 of 1982.

December 19, 1983.

Land Acquisition Act (I of 1894)—Sections 30 & 53—Code of Civil Procedure (V of 1908)—Order 1 Rule 10—Person not filing any claim under section 9 nor participating in an inquiry regarding apportionment of compensation under section 11 of the Act before the Collector—Reference made by the Collector under Section 30 of the Act to the District Judge—Person aforementioned making an application under Order 1 Rule 10 of the Code for being impleaded as a party—Such application—Whether competent.

Held, that the proceedings before the Court on a reference made by the Collector under Section 30 of the Land Acquisition Act, 1984 are of a special nature. The Court can take cognizance of the dispute regarding apportionment of compensation of the acquired land, only on a reference and the enquiry is confined to a dispute between certain parties. The Court cannot enlarge its scope by impleading others as parties. The persons who had not appeared before the Collector and staked any claim to compensation for the land, in dispute, and have not raised any grievance as to the apportionment of compensation in the award of the Collector,

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cannot come forward to join issue before the Court adjudicating on the reference. As such the application under Order 1 Rule 10 of the Code of Civil Procedure 1908 is not maintainable.

(Para 4).

Petition Under Section 115 C.P.C. for the revision of the order of the Court of Shri R. C. Jain, Additional District Judge, Ambala, dated 17th November, 1982, dismissing the application under Order 1 Rule 10 C.P.C.

M. L. Sharma, Advocate, for the Petitioner.

I. S. Saini, Advocate, for No. 1.

B. L. Bishnoi, Additional A. G. (Hy.) for No. 3

Nemo for No. 2.

JUDGMENT

Sukhdev Singh Kang, J.

(1) Whether a person, who had not filed any claim in response to a notice issued under Section 9 of the Land Acquisition Act ('the Act' for short) and had not participated in the enquiry held by the Land Acquisition Collector (for short 'the Collector') under Section 11 of the Act and had not raised any dispute for the apportionment of compensation before the Collector, can be impleaded as a party to the proceedings pending before the Court on a reference made by the Collector under Section 30 of the Act against the wishes of the person on whose application reference has been made, is the short but meaningful question raised in this revision petition under Section 115 of the Code of Civil Procedure.

(2) A brief survey of the pertinent facts will help illumine the contours of forensic controversy:

Amar Singh, respondent No. 1, to this revision petition, moved an application raising a dispute regarding the title of the land, in dispute, measuring 20 Kanals, situated in village Abheypur and apportionment of its compensation determined by the Collector under section 11 of the Act. In exercise of the powers conferred on him under section 30 of the Act, the Collector referred the dispute between Amar Singh and the Gram Panchayat over the apportionment of the compensation to the Court for decision. The matter was entrusted to the learned Additional District Judge, Ambala, for disposal. The petitioners made an application under Order 1, Rule

10 of the Code of Civil Procedure, to the Court for being impleaded/ added either as applicants respondents to the reference under section 30 of the Act. Amar Singh opposed this application. The learned Additional District Judge held that the statement under section 19 of the Act placed on the record indicated that Amar Singh had interest in the land and *prima facie shamilat deh* of a village vests in the Gram Panchayat of that village under the Punjab Village Common Lands (Regulation) Act. The Gram Panchayat was already a party to the proceedings. The applicants were not parties before the Collector. Relying on two decisions in *Basalingappa Gowda and others v. Nagamma and others* (1) and *Municipality Nalgonda v. Hakeem Mohiuddin and others* (2) he also held that the Civil Court had no jurisdiction to implead a person, to a reference, who was not a party before the Collector. He dismissed the application filed by the petitioners. They have now come up in revision to this Court.

(3) The answer to the question raised falls to be decided on a conspectus of the relevant provision of the Act. Under section 9 of the Act the Collector is required to cause a public notice of the intention of the Government to take possession of land and inviting the persons interested to file their claims and appear before the Collector personally or by an agent at the time and place mentioned therein and to state their respective interest in the land and the particulars of their claims to compensation. Under section 11 of the Act, the Collector is enjoined to make an enquiry and make an award regarding the area of the land the compensation for the land and apportionment of compensation among the persons known or believed to be interested in the land of whose claims he had information whether or not they have appeared before him. Such an award, under section 12 of the Act, shall be filed in the office of the Collector and shall be final and conclusive evidence as between the Collector and the persons interested. Part IV of the Act prescribes the procedure for 'apportionment of compensation'. Section 30 of the Act reads as under:—

"S. 30:

Dispute as to
apportionment

When the amount of compensation has been settled under section 11, if any dispute arises as to the apportionment of

- (1) A.I.R. 1969 Mysore 313.
(2) A.I.R. 1964 Andhra Pradesh 305.

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the same or any part thereof, or as to the persons to whom the same or any part thereof is payable; the Collector may refer such dispute to the decision of the Court.

* * * * *

Section 53 of the Act lays down that the provisions of the Code of Civil Procedure so far as they are not inconsistent with any provisions of the Act shall apply to all proceedings before the Court under the Act. It is reproduced below:—

“S. 53

Code of Civil Procedure to apply to proceedings before Court.

Save in so far as they may be inconsistent with anything contained in this Act, the provisions of the Code of Civil Procedure shall apply to all proceedings before the Court under this Act.”

The petitioners did not file any claim to this land. They did not appear before the Collector during the enquiry under section 11 of the Act. The petitioners did not make any application under Section 30 before the Collector for apportionment of the compensation. An application was made by Amar Singh and he contended that there was a dispute between him and the Gram Panchayat regarding the apportionment of compensation of the land, in dispute. Reference had been made at the instance of Amar Singh who had impleaded the Gram Panchayat as a party.

(4) Proceedings before the Court on a reference made by the Collector under section 30 are of a special nature. The Court can take cognizance of the dispute regarding apportionment of compensation of the acquired land, only on a reference and the enquiry is confined to a dispute between certain parties. The Court cannot enlarge its scope by impleading others as parties. The persons who had not appeared before the Collector and staked any claim to compensation for the land, in dispute, and have not raised any grievance as to the apportionment of compensation in the award of the Collector, cannot come forward to join issue before the Court adjudicating on the reference. A Division Bench of the Andhra Pradesh High Court in *Municipality, Nalgonda v. Hakeem Mohiuddin and others* (supra), while interpreting section 25 of the Hyderabad

Land Acquisition Act which corresponds to section 30 of the Act, observed as follows:—

“In an apportionment case referred to the Court under S. 25 (corresponding to S. 30 of the Indian Land Acquisition Act) a person who had not appeared before the Taluqdar and whose name is not mentioned in the reference, cannot be added as a party to the proceedings before the Court nor can he urge his claim to compensation on that reference.”

A similar view was taken in *Mohammed Ibrahim Sahib and Others v. Land Acquisition Officer, Bhimavaram* (3) and *Manjur Ahmed and others v. Rajlakshmi Dassi and others* (4). In fact this view has prevailed in the Calcutta High Court over a long period of time. Mysore High Court in *Basalingappa Gowda and others v. Nagamma and another* (5) has expressed the same view that a court cannot implead a person, who never appeared before the Land Acquisition Officer and did not figure as a claimant before him. The jurisdiction of the Court is derived from the reference made by the Collector under section 30 of the Act. Only the disputants to the dispute in respect of which a reference has been made under section 30 are parties before the Court. The Collector in a dispute regarding apportionment has no jurisdiction to enquire into the title to the acquired land and give a decision thereon. Only the civil court could do so. Provisions of the Civil Procedure Code will apply to a reference under section 30 only to the extent they are not inconsistent with the provisions of the Act. There is no general jurisdiction with the Court to bring on record additional parties as a civil court may do in the case of an ordinary civil suit. In a recent decision *K. C. Aggarwal, J. of the Allahabad High Court in Tejdhari and others v. Baul and others* (6) has taken the same view. He has held that the power conferred on the Court under section 30 is only in respect of a matter referred to by the Collector. It is not a Court of original jurisdiction entitled to entertain the dispute between the parties on its own. Its jurisdiction is confined to the matter referred. A person applying for impleadment can claim his right only through the party, the right of which had been referred

(3) A.I.R. 1958 A.P. 226.

(4) A.I.R. 1956 Calcutta 263.

(5) A.I.R. 1969 Mysore 313.

(6) A.I.R. 1981 Allahabad 47.

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to by the Collector for decision to the Court. A contrary view has been taken by a Division Bench of the Patna High Court in *Mt. Sakalbaso Kuer v. Brijendra Singh and Others* (7). It has been held:

“S. 30 contemplates two types of cases to be referred to the court by the Collector, namely, dispute regarding the apportionment of compensation and the person to whom compensation is payable. If the dispute is as to the apportionment of the compensation, persons who have not come before the Collector during the proceedings for making the award, may not be permitted to come before the Court, because the dispute referred to the court is confined to the apportionment of the compensation amount. But, if the reference is in regard to as to the person to whom the compensation money is payable, the scope of the decision of the court will be who are the persons who are entitled to receive the compensation. In such a case, although a person might not have been before the Collector during the proceedings for making the award, if that person is an ‘interested person’ within the meaning of the definition under the Act, the court can add such a person as a party in deciding the reference as to whom the compensation amount is payable. For, under S. 53 of the Act, the provisions under O.1, R. 10 of the Civil P.C. are clearly attracted to case of reference under S. 30 before the Court when the nature of the dispute under reference does not change.”

This view was not accepted by Justice Aggarwal. He did not accept that there was difference between the two types of cases. It seems that it was not pointed out by the parties to the Bench deciding *Mt. Sakalbaso Kuer's case* (supra) that the court gets jurisdiction to determine apportionment only on a reference made by the Collector. I am in respectful agreement with the preponderant view enunciated by the Calcutta, Andhra Pradesh, Mysore and Allahabad High Courts. The order of the Additional District Judge is in consonance with law.

(5) As a result, I find no merit in this revision petition and the same is dismissed but with no order as to costs.

H.S.B.

(7) A.I.R. 1967 Patna 243.