

***THE HON'BLE SRI JUSTICE M.LAXMAN**

+ CIVIL REVISION PETITION No.479 OF 2014

% 24-03-2023

Madem Muthamma and 6 others.

...Petitioners

vs.

\$ Dharmula Mangamma and 4 others.

... Respondents

!Counsel for the Appellant: Sri S. Madam Mohan Rao.

^Counsel for Respondents: Sri R.R. Kalyan

<Gist :

>Head Note :

? Cases referred

1. (2013) 11 SCC 362

IN THE HIGH COURT FOR THE STATE OF TELANGANA
HYDERABAD

* * * *

CIVIL REVISION PETITION No.479 OF 2014

Between:

Madem Muthamma and 6 others.

...Petitioners

vs.

Dharmula Mangamma and 4 others.

... Respondents

JUDGMENT PRONOUNCED ON: 24.03.2023

THE HON'BLE SRI JUSTICE M.LAXMAN

1. Whether Reporters of Local newspapers
may be allowed to see the Judgments? :

2. Whether the copies of judgment may be
Marked to Law Reporters/Journals? :

3. Whether His Lordship wishes to
see the fair copy of the Judgment? :

M.LAXMAN, J

THE HONOURABLE SRI JUSTICE M.LAXMAN**CIVIL REVISION PETITION No.479 of 2014****ORDER:**

1. The present Civil Revision Petition has been directed against order dated 10.09.2013 in I.A.No.511 of 2013 in L.A.O.P.No.10 of 2011 on the file of Principal Senior Civil Judge, Kothagudem, (hereinafter referred to as 'Court below'), wherein and whereby the application filed by the respondents herein under Order XXIII Rule 3 read with Section 151 of C.P.C, for recording compromise, was returned. Aggrieved by the same, the present revision is preferred.

2. In the present case, when the matter was referred to the decision of the Court below under Section 30 of Land Acquisition Act, 1894 (for short 'Act of 1894'), claims were made by rival claimants for compensation. In such circumstances, the amounts awarded in respect of such acquired land were deposited in the Court below in terms of Section 31 of the Act of 1894. While dispute was pending before the Court below, the rival claimants arrived at a compromise to settle their disputes amicably. In pursuance of such settlement, they filed the present application i.e., I.A.No.511 of 2013 under Order XXIII Rule 3 read with Section

151 of C.P.C., to record the compromise. The said application was returned by the Court below on the ground that its jurisdiction is ousted on account of judgment of Apex Court in case of **Nagarjuna Grameena Bank Vs. Medi Narayana**¹.

3. The impugned order dated 10.09.2013, reads as under:

“Petition under Order 23 Rule 3 read with Section 151 of C.P.C seeking to record the compromise. Petition schedule property are situated in agency area, but the office of L.A.O, who referred the reference under Section 30 & 31 of L.A. Act to this Court for proper adjudication is situated in Paloncha agency area. But in view of Supreme Court Judgment in Civil Appeal Nos. 5030-5036, 5037-5038, 5028, 5029 of 2004 and 371 of 2007, dated 25-09-2012, the jurisdiction of this Court is ousted. Hence, the hands of this Court are tied up. This Court is not inclined to record the compromise, the petition is returned.”

4. The contention of learned counsel for the revision petitioners herein is that the acquired lands are located in agency area and such acquisition was done by invoking the provisions under the Act of 1894. The said acquisition was done by duly following the procedure laid down under the Act of 1894 and award was passed by granting compensation. Since there were rival claims to the amount fixed in respect of land acquired, the dispute was referred to Civil Court i.e., the Court below, which is designated to answer the reference by the State Government. The amount fixed was also

¹ (2013) 11 SCC 362.

deposited in the Civil Court. When such amounts were deposited and the reference was made to the Civil Court for adjudication of title dispute, the Court below cannot say that there is lack of jurisdiction on the ground that the Civil Court has no jurisdiction to deal with cause of action arose in respect of agency areas.

5. According to the learned counsel for revision petitioners, the impugned order returning the compromise petition, is illegal and hence, it is liable to be set aside.

6. The Court below in passing the impugned order has relied upon the judgment of Apex Court in the case of **Nagarjuna Grameena Bank** (cited supra), whereunder the judgment passed by this Court in batch of revision petitions while interpreting applicability of Andhra Pradesh Civil Courts Act, 1972 (for short 'the Act of 1972') to the scheduled areas of the State of Andhra Pradesh (now Telangana), found that the jurisdiction of the Civil Court is not extended to the cause of action arose in the agency areas.

7. A reading of sub-section 3 of Section 1 of the Act of 1972 would show that the Act of 1972 shall come into force in such area and on such date as the Government may, by notification, appoint,

and they may appoint different dates for different provisions of the Act. Accordingly, the Government by way of G.O.Ms.No.1573 dated 30.10.1972 appointed the enforcement date of the Act of 1972, w.e.f. 01.11.1972 and from the said date, the said Act came into force in whole of the State, except scheduled areas of the State.

8. This Court, in batch of revision petitions, while considering the effect of this notification, which restricted the application of Civil Courts to scheduled areas, held that when the whole cause of action arose in agency area, the Act of 1972 cannot be applied and thereby the Civil Courts are ousted with jurisdiction to deal with the cause of action which arose in agency areas.

9. A reading of the entire scheme of the Act of 1972 shows that it enables establishment of District Courts for each District and also enables to appoint the Chief Judge for the District of Hyderabad and District Judge for Districts. It also prescribes the appointment of Senior Civil Judges as well as Junior Civil Judges for the areas to be earmarked by the State Government in consultation with the High Court. This means, entire Act prescribes almost all levels of Civil Judges, their territorial and pecuniary jurisdiction in dealing with the subject matters before

them, in respect of cause of action arose in the areas, to which the Act would apply.

10. In view of the judgment of the Apex Court in **Nagarjuna Grameena Bank** (cited supra), there is no dispute with regard to proposition that when the cause of action arose wholly in agency areas, the Civil Courts have no jurisdiction since the Act of 1972 is not made applicable to agency areas.

11. Now the question is whether the said decision can be invoked when the lands were acquired under the provisions of the Act of 1894, and when the reference was made to the Principal Civil Court or any other Civil Court prescribed by the State Government, such Courts lack jurisdiction to answer reference, or whether such a reference has to be made to the Agency Court in the light of the judgment of the Apex Court in the case of **Nagarjuna Grameena Bank** (cited supra).

12. In this regard, it is relevant to refer to Section 1 (2) of the Act of 1894, which shows that the Act of 1894 is extended to whole of India except to the State of Jammu and Kashmir. This means, Act of 1894 also applies to the agency areas. It is also relevant to refer to Section 18 of the Act of 1894, which reads as under:

“Section 18: Reference to Court:-

(1) Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court, whether his objection be to the measurement of the land, the amount of the compensation, the person to whom it is payable, or the apportionment of the compensation among the persons interested.

(2) The application shall state the grounds on which objection to the award is taken:

Provided that every such application shall be made-

(a) if the person making it was present or represented before the Collector at the time when he made his award, within six weeks from the date of the Collector's award;

(b) in other cases, within six weeks of the receipt of the notice from the Collector under section 12, sub-section (2), or within six months from the date of the Collector's award, whichever period shall first expire.”

13. A reading of the above provision, it is clear that any person interested, who has not accepted the award, may file a written application before the Land Acquisition Officer to refer the matter to the Court with regard to measurement of the land, the amount of compensation, the person to whom it is payable, or the apportionment of the compensation among the persons interested. It is also apt to refer Section 30 of the Act of 1894, which reads as under:

“Section 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 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.”

14. A reading of the above provision, it is clear that if there is any dispute arising in respect of compensation settled under Section 11 of the Act of 1894 with regard to apportionment of compensation, the persons to whom the same or any part thereof payable, the Land Acquisition Officer/Collector may refer such dispute to the decision of the Court. In both the Sections referred above, the word ‘Court’ has been used. Section 3 (d) of the Act of 1894, defines the word ‘Court’, which reads as under:

“Section 3: Definitions:-

(a)...

(b)...

(c)...

(d) the expression “Court” means a principal Civil Court of original jurisdiction unless, the [appropriate Government] has appointed (as it is hereby empowered to do) a special judicial officer within any specified local limits to perform functions of the Court under this Act;

(e)...”

15. A reading of the above provision would make it clear that ‘Court’ means the Principal Civil Court of original jurisdiction, which is normally, the Principal District Judge Court in the District and the Chief Judge, Court in the District of Hyderabad. Further, the definition enables the appropriate Government to appoint any

specific Judicial Officer within a specified limit to perform the functions of the Court under the Act of 1894.

16. It is needless to say that reference was made by virtue of provisions under Sections 18 and 30 of the Act of 1894. The said Act applies to the agency areas also. The jurisdiction of the Civil Courts for adjudicating reference derives from the Act of 1894 (Land Acquisition Act) but not from the Act of 1972 (Civil Courts Act). The Civil Courts assume powers for adjudicating the issues by virtue of reference under Section 18 read with Section 30 of the Act of 1894. Further, when a dispute arises with regard to apportionment of compensation determined under Section 11 of the Act of 1894, Section 31 thereof mandates that such compensation shall be deposited before the Civil Court having jurisdiction.

17. In the present case, the compensation was rightly deposited by the Land Acquisition Officer in terms of the Act of 1894 before the Court below, which is specific designated Judicial Officer to deal with reference relating to the land acquisition cases of relevant jurisdiction. When such amount is deposited before the Senior Civil Judge in compliance of the Act of 1894 and when reference is received, he is bound to answer the reference and he cannot go beyond reference.

18. Further, in the present case, having entertained the reference, and having received the compensation amount from the Land Acquisition Officer, the Court below cannot say that it has no jurisdiction in the light of the decision of the Apex Court in **Nagarjuna Grameena Bank** (cited supra). The Court below has misconstrued the jurisdiction and felt that the jurisdiction is traceable under the Act of 1972. In fact the jurisdiction is under the Act of 1894. Incidentally, it may be the Principal Court with civil jurisdiction created under the Act of 1972, but the bar of jurisdiction of the Civil Court to deal with civil disputes in agency areas does not come in its way in dealing the disputes under the Act of 1894. The Act of 1894 explicitly extends to whole of India with exception to the State of Jammu and Kashmir. Therefore, the Court below cannot rely upon the said decision of the Apex Court, which is unconnected to the facts in the present case. Thus, the order under challenge is liable to be set aside.

19. In the result, the Civil Revision Petition is allowed and the order dated 10.09.2013 in I.A.No.511 of 2013 in L.A.O.P.No.10 of 2011 on the file of Principal Senior Civil Judge, Kothagudem, passed returning the application filed under Order XXIII Rule 3 read with Section 151 of C.P.C for compromise, is set aside and the

Court below is directed to number the application if it is in order, and on satisfaction of the claims under the application, shall pass appropriate orders. There shall be no order as to costs. Miscellaneous petitions, if any, pending, shall stand closed.

Date: 24.03.2023
GVR/PLD

M.LAXMAN, J