

THE HON'BLE THE CHIEF JUSTICE SHRI NISAR AHMAD KAKRU
and
THE HON'BLE SHRI JUSTICE VILAS V. AFZULPURKAR

Dated: 29-07-2011

WRIT APPEAL No. 582 OF 2011

Between:

Sri Jitendar Kumar Kedia

... APPELLANT

AND

The Special Deputy Collector (Land Acquisition), GHMC, Hyderabad
and another

...RESPONDENTS

THE HON'BLE THE CHIEF JUSTICE SHRI NISAR AHMAD KAKRU
and
THE HON'BLE SHRI JUSTICE VILAS V. AFZULPURKAR

WRIT APPEAL No. 582 OF 2011

JUDGMENT: (per the Hon'ble the Chief Justice Shri Nisar Ahmad Kakru)

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A writ petition came to be filed for Mandamus to direct respondent No.1 to refer the dispute of apportionment to competent civil court for adjudication under Section 30 of the Land Acquisition Act, 1894 (for short, the Act), but of no avail to the petitioner – appellant, hence this writ appeal. We find no reason to interfere inter alia because of the fact that award was passed on 30-10-2010, whereas application seeking a reference under Section 30 of the Act was filed much later i.e., on

15-02-2011, notwithstanding the fact that before filing of application, compensation was already disbursed to one of the joint owners as per the apportionment detailed in the award. That apart disputed questions have also been raised, therefore view of learned single Judge that appropriate remedy for the appellant is the suit, which in our opinion also is the appropriate remedy. Dismissed. Needless to say that any observation made in the judgment by the learned single Judge on the facts of the case shall not influence the civil Court in adjudicating upon the matter for the simple reason that the adjudication has to be founded on the basis of legally admissible evidence, be it oral or written that may be advanced by the parties.

VILAS V. AFZULPURKAR, J

NISAR AHMAD KAKRU, CJ

29-07-2011

K. Shyleshi