



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 31ST DAY OF AUGUST, 2024

BEFORE

THE HON'BLE MR JUSTICE M.I.ARUN

WRIT PETITION NO.15405 OF 2018 (LA-RES)

BETWEEN:

1. ANJANADEVI
W/O. LATE CHIKKARANGAIAH,
AGED 65 YEARS,
2. PUSHPALATHA
D/O. LATE CHIKKARANGAIAH,
AGED 65 YEARS,

BOTH ARE RESIDING AT
NANDIHALLI, CHELLUR HOBLI,
GUBBI TALUK,
TUMKUR DISTRICT-571 201.

...PETITIONERS

(BY SRI T.A. KARUMBIAIAH, ADVOCATE)

AND:

1. LAKKAMMA
W/O. LATE RANGASWAMAIAH,
AGED 66 YEARS,
2. JAYANNA
S/O. LATE RANGASWAMAIAH,
AGED 45 YEARS,
3. GIRIAPPA
S/O. LATE RANGASWAMAIAH,
AGED 43 YEARS,



4. CHANDRASHEKAR
S/O. LATE RANGASWAMIAH,
AGED 40 YEARS,

ALL ARE RESIDING AT
C-NANDHIHALLI VILLAGE,
CHELLUR HOBLI, GUBBI TALUK,
TUMKUR DISTRICT-571 201.

5. THE SPECIAL LAND ACQUISITION OFFICER
HEMAVATHI CHANNEL,
TUMKUR DISTRICT
TUMKUR-571 218.

...RESPONDENTS

(BY SRI YOGESH D. NAIK, AGA FOR R.5;
SRI V.B. SIDDARAMAIAH, ADVOCATE FOR F.1 TO R.4.)

THIS PETITION IS FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH ANNEXURE-D, THE ORDER DATED 28.03.2018 PASSED BY THE SENIOR CIVIL JUDGE AND JMFC., GUBBI ON I.A. FILED BY THE PETITIONERS UNDER ORDER I RULE 10(2) OF CPC., IN LAC 55/1997 AND ALLOW THE SAID APPLICATION AS PRAYED FOR, ETC.

THIS PETITION COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THROUGH PHYSICAL HEARING/VIDEO CONFERENCING THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR JUSTICE M.I.ARUN



ORAL ORDER

1. Aggrieved by the order dated 28.03.2018 passed by the Senior Civil Judge, Gubbi, on an interlocutory application filed under Order I Rule 10(2) of CPC in LAC No.55/1997, the applicants therein have filed this writ petition.

2. 1 acre 8 guntas of land in Survey No.14/1 situated at Nandihalli village, Chelur Hobli, Gubbi Taluk was acquired by the State. A notice was issued to one Rangaswamaiah whose name appeared in the revenue records for determining compensation. It culminated in reference under Section 18 of the Land Acquisition Act, 1894 ('the Act' for short) as the said Rangaswamaiah aspired for higher compensation. Subsequently, the said Rangaswamaiah is said to have died and respondent nos.1 to 4, who are his legal representatives, are conducting LAC No.55/1997. In the said proceedings, the petitioners claiming to be the legal representatives of one late Chikkarangaiah, who happened to be brother of late



Rangaswamaiah, made an application under Order I Rule 10(2) of CPC to implead themselves as applicants for compensation. Their case is that the property acquired, was the joint family property of one late Giryappa, who happened to be the father of late Chikkarangaiah and late Rangaswamaiah and after his demise, the revenue documents reflected only the name of Rangaswamaiah, as he was the elder brother, but late Chikkarangaiah has a right over the property concerned and that the petitioners herein succeed to the interest of late Chikkarangaiah and they have a right to be impleaded in LAC No.55/1997. On the said ground, the impleading application has been made. However, the trial court on the ground that the reference under Section 18 of the Act has been sought only by late Rangaswamaiah and as per the decision of the Hon'ble Apex Court in ***Smt. Ambey Devi vs. State of Bihar*** reported in ***AIR 1996 SC 1513***, the petitioners are not entitled to be impleaded as a party to the proceedings, has dismissed the application. Aggrieved by the same, the present writ petition is filed.



3. It is contended by the petitioners that the case law relying on which the trial court dismissed their application is not applicable given the facts and circumstances of the case. It is submitted that they are just and necessary parties and the trial court erred in not impleading them as a party to the proceedings.

4. Per contra, respondent nos.1 to 4 justify the order of the trial court and pray for dismissal of the writ petition.

5. The Acquiring Authority is not expected to make a detailed enquiry as to who is the owner of the property concerned and issue notice to each one of them. They are required to issue notice to the notified khathedaars whose name finds a mention in the revenue records. In the instant case, the State has noticed that the name of the late Rangaswamaiah was mentioned in the revenue records regarding the land acquired and has issued notice to him. He being the elder brother in the family and probably the Kartha has participated in the acquisition proceedings and not satisfied with the compensation



awarded has requested for a reference to be made to the Reference Court and it has resulted in LAC No.55/1997. It is the case of the petitioners that the property belongs to a joint family and it consisted of both late Rangaswamaiah and Chikkarangaiah and other siblings and the petitioners being the legal representatives of the deceased Chikkarangaiah are entitled to a share in the compensation to be awarded, have made an application. In a Reference Court, all persons who are having interest in the property are entitled to seek apportioning of compensation in accordance with law. The ratio laid down by the Apex Court in **Smt. Ambey Devi's** case supra relied upon by the trial court is not applicable to the present case, because as per the facts in the said case, a reference was requested to be made by a person only in respect of his share in the joint family property over which other persons in the joint family did not have a share. The other persons in the joint family, had not made such a request and a reference was not made in respect of the entire property. Hence, it was held that other persons



who had no right in the share of the person who made the request could not make a request to implead themselves in the said proceedings. In the instant case, according to the petitioners, there is no partition in the joint family property and the property acquired is part of the joint family and late Rangaswamaiah along with late Chikkarangaiah and other siblings have a right over the property and the compensation payable in respect of the entire property has been referred to the Reference Court and that the petitioners are entitled to the share to which late Chikkarangaiah succeeds. Thus, under the circumstances, I am of the opinion that the petitioners are just and necessary parties to the proceedings.

6. It is needless to state that the trial court is required to examine the rival contentions of the parties and thereafter determine if at all the petitioners have a right over the property concerned and if they have a right to what extent they have a right. The parties are given the liberty to take up all necessary contentions before the trial



court with regard to apportioning of compensation.

Hence, the following:

ORDER

- (i) The impugned order dated 28.03.2018 passed by the Senior Civil Judge, Gubbi, on an interlocutory application filed under Order I Rule 10(2) of CPC in LAC No.55/1997 is hereby set aside;
- (ii) The application filed by the petitioners/impleading applicants in LAC No.55/1997 under Order I Rule 10(2) of CPC is hereby allowed;
- (iii) The trial court is directed to implead the petitioners and proceed with LAC No.55/1997 in accordance with law;
- (iv) The writ petition stands disposed of accordingly.

**Sd/-
(M.I.ARUN)
JUDGE**

hkh.