

SUPREME COURT OF INDIA

Ajjam Linganna

Vs.

Land Acquisition Officer, Revenue Divisional Officer, Nizamabad

(M.J. Rao and Doraiswamy Raju JJ.)

28.11.2000

ORDER

1. Special leave granted.

2. These are the appeals by the appellants questioning the judgment of the High Court of Andhra Pradesh dated 10-3-1999 in CRP.No. 2278, 2280, 2282 of 1995 and CRP.No. 4022 of 1996. In these appeals there are 11 appellants in civil appeal arising out of SLP(C)No. 15481/99, one appellant in the appeal arising out of SLP(C)No. 15483/99 and three appellants in civil appeal arising out of SLP(C)No. 15484/ 99, seven appellants in the appeal arising out of SLP(C)No. 15485/99. All these appellants contended that the judgment of the High Court not allowing them to have a reference under Section 18 of the Land Acquisition Act, is liable to be set aside.

3. The High Court came to the conclusion inter alia that the reference Court is not entitled to amend a reference under Sections 30 and 31 into a reference also under Section 18 of the Land Acquisition Act. The High Court had given other findings against the appellants but it is not necessary for the purpose of these appeals to refer to them. Suffice it to say that after the award was passed on 16-1-76 the first appellant Ajjam Linganna in SLP. No. 15481/99 was the only person who filed an application before the Land Acquisition Officer seeking a reference under Section 18. By that date it appears that a reference under Sections 30 and 31 was pending before the civil Court. The Land Acquisition Officer did not take any action upon an application filed by Ajjam Linganna seeking a reference under Section 18. Thereafter the said claimant filed an application in the Court seeking reference under Section 18 and for amendment of the existing reference under Sections 30 and 31. This was allowed by the reference Court on 16-12-93. Subsequently, other appellants in these appeals had also made applications to the reference Court on 10-12-93 and obtained orders of impleadment on 25-1-94 and proceeded to seek enhancement of compensation.

4. In our view, it was not open to the appellants (other than Ajjam Linganna) to have applied directly to the reference Court for impleadment and to seek enhancement under Section 18 for compensation. The only person for whom some consideration can be shown is Ajjam Linganna who had atleast filed an application on 14-9-93 before Land Acquisition Officer seeking reference.

5. In the above facts and circumstances, these appeals preferred by the various appellants except Ajjam Linganna are liable to be set aside inasmuch as it was not open to reference Court to implead the said appellants in the reference Court without their having approached the Land Acquisition Officer seeking reference earlier.

6. That leaves question of Ajjam Linganna alone, in this batch of appeals for consideration. As stated above, he had mentioned in his application filed on 14-9-93 that he had gone to Bombay during the relevant period when notice under Section 12(2) of the Land Acquisition Act were served on the claimants. The result was that he did not receive any notice under Section 12(2). The judgment in appeal itself also mentioned that no positive evidence was available to show that the said Ajjam Linganna was served that notice under Section 12(2) of the Land Acquisition Act.

7. So far as he is concerned instead of allowing further litigation, we would think that having regard to the facts and circumstances of the case above mentioned, the award passed by the civil Court in so far as the 2 guntas of land in which he was interested, should be treated as final and the order of the High Court modifying the same should be set aside.

8. In other words, so far as the Ajjam Linganna is concerned, the award passed by the civil Court at Rs. 50 per sq. yard will be treated as final and the appeal filed by the Land Acquisition Officer to the High Court in so far as Ajjam Linganna is concerned will be deemed to have been set aside. The appeal preferred by the Land Acquisition Officer to the High Court will stand dismissed so far as Ajjam Linganna is concerned. To the same extent the CRP filed by the Land Acquisition Officer in so far as Ajjam Linganna is concerned will stand dismissed. Subject to the above modifications the appeals are dismissed. The appeal of Ajjam Linganna is allowed and others is dismissed.

9. There shall be no order as to costs.