

**IN THE COURT OF THE II ADDITIONAL CITY CIVIL AND
SESSIONS JUDGE AT BANGALORE (C.C.H. No.17)**

Dated this the 2nd day of July, 2022.

:PRESENT:

Smt. Sheila, M.Com., LLM
II Addl. City Civil and Sessions Judge, Bangalore.

LAND ACQUISITION CASE No.54/2013

CLAIMANTS:

Smt. Pushpalatha and others

-VERSUS-

RESPONDENT:

The Special Land Acquisition Officer,
Bengaluru

APPLICANT:

Narayanappa
S/o late. Ramaiah and Narasamma
Aged about 50 years
R/at No.16, Kommaghatta village
Sulikere post
Kengeri Hobli,
Bengaluru -560 060.

Orders on I.A. No.3

Impleading Applicant has filed this application under Order 1 Rule 10(2) R/w Section 151 of CPC, requesting this Court to implead him as additional claimant.

.2. The impleading applicant Narayanappa in his sworn affidavit has stated that his grand father late. Obalaiah

acquired the property bearing Sy.No. 104/2 measuring 2 acres 20 guntas, Sy.No. 104/4 measuring 1 acre 8 guntas, Sy.No. 87 measuring 3 acres 24 guntas, situated at Komaghatta village, Kengeri Hobli. It is stated that his grand father died intestate leaving behind claimants 4 to 7 and Smt. Nanjamma, Puttamma and Narasamma as his legal heirs to succeed the estate. The said Narasamma died leaving behind him and Thmmarayappa. The said Thimmarayappa has died. It is stated that he has succeeded the estate of Smt. Narasamma and he has a equal right with other children of Obalaiah. But the claimants 4 to 7 have suppressed his right and trying to get the award in their favour. If the application is allowed no hardship will be caused to other side. On the other hand, if the application is not allowed, they will be put to great hardship. Hence, he prayed for allowing the application.

.3. The claimant No.1 has filed objections stating that the application is not maintainable on the ground that the applicant already acquired his share in the joint family properties of claimants 4 to 6 and also in compensation deposited in this case as per the orders in O.S.No.

1329/2009. The applicant intentionally filed this application with a view to harass the claimant No.1. The applicant share was already allotted and received in terms of money of Rs.10,00,000/- as his share in the joint family properties including compensation deposited in this case. The said compromise petition is came in to force between the parties to the suit. As per the compromise petition, all the right in the joint family properties including compensation awarded in this case was acquired by the male members i.e., claimants 4 to 6. The claimant No. 1 has filed the suit for specific performance of contract in O.S.No. 133/2018 against other claimants 2 to 6 and their families in-respect of Sy.No. 104/4, 104/2 and Sy.No. 87, which were acquired by the respondent for formation of Kempegowda layout. The said suit is amicably settled between the claimants. The claimants 4 to 6 have agreed to receive Rs.9,62,50,000/- and 7 sites, which was released by the B.D.A. instead of monetary compensation for acquired lands and the claimants 4to 6 and their family members have declared that the claimants 4 to 6have no further claim against the claimant No.1 or with B.D.A. in-respect of suit properties including the compensation

deposited in this case. Further the claimants 4 to 6 have no objection to the claimant No.1 to withdraw the compensation deposited in this case in his name or get release of sites and other benefits from B.D.A. including compensatory sites. It is stated that as per the terms of compromise petition in O.S.No. 133/2018, this claimant has already paid Rs. 9,32,50,000/- to the claimant No.4 to 6 which includes the compensation deposited in this case. That the claimant No.1 has got released benefits from the B.D.A. in-respect of acquired properties of Sy.No. 104/4 and 87 and 5 sites were given in the name of claimants 4 to 6. Further this compensation amount in-respect of Sy.No. 104/2 only remains for consideration and still the claimant No.1 has not moved any application for release amount based on the compromise decree, since the claimant No.1 has approached the respondent authority for compensatory sites instead of compensation of amount for acquisition of land in dispute and same is pending consideration. So, this claimant is yet to get release of the award amount in this case. It is stated that as per the decree in O.S.No. 1293/2009 the claimants 4 to 6 has to pay Rs. 10,00,000/- to the impleading applicant as his

share in the joint family properties including this compensation deposited in this case and the said share might be paid to the impleading applicant by the claimants 4 to 6. It is stated that the impleading applicant is not necessary party to this case. Since he has lost his right and share in O.S.No. 1329/2009 and further claim of the impleading applicants is against the decree. Hence prayed for dismissal of the application.

.4. The claimants 4 to 6 have filed objections stating that the application by the impleading applicant is neither maintainable in law nor on facts. The mother of the proposed claimant late. Narasamma passed away more than 35 years back and her father and father of these claimants died earlier to 1947 before the Hindu Succession Act, 1956 came into force. As mother of the proposed claimant Narasamma and her father died earlier to 09.09.2005 the date of Hindu Succession Act, 2005 came into force, her legal representatives will not get any right, title or interest in the ancestral properties of her father. Hence, prayed for dismissal of the application.

.5. Heard the arguments.

.6. The following points that would arise for my consideration are:

1) Whether the impleading applicant has made out a grounds to implead him as claimant in this case?

2) What order?

.7. My answers to the above points are:

Point No.1 : In the negative,

Point No.2 : As per final order, for the following:

REASONS

.8. **Point No.1:** The respondent – SLAO has sent this reference under Sections 30 and 31(2) of L.A. Act, for apportionment of compensation amount. The land bearing Sy.No. 104/2 measuring 2 acres 17 guntas of Komaghatta village, Kengeri Hobli, Bengaluru South Taluka has been acquired for formation of Nadaprabhu Kempegowda layout.

.9. The impleading applicant Narayanappa has stated that his grand father late. Obalaiah had acquired Sy.No. 104/2 measuring 2 acres 20 guntas and other properties situated at Komaghatta village. He has stated that his grand father died intestate leaving behind claimants 4 to 7 and Smt. Nanjamma, Puttamma and Narasamma as his legal heirs to

succeed the estate. The said Narasamma died leaving behind him and Thimmarayappa. The said Thimmarayappa has also died. He has stated that he succeeded the estate of Narasamma and he has equal right with other children of Obalaiah. The claimants 4 to 7 have suppressed the said material facts and are trying to get the award in his favour.

.10. The claimant No.1 has stated that one Nanjamma had filed the suit in O.S.No. 1329/2009 against claimants and impleading applicant and as per the compromise, Narayanappa has been allotted and received Rs.10,00,000/- as his share in the joint family properties including compensation deposited in this case. In support of the said contention, he has produced memorandum of settlement under Section 89 of CPC R/w Rules 24 and 25 of the Karnataka Civil Procedure (Mediation) Rules, 2005. From the said settlement, it is seen that Narayanappa is the defendant No.16 in the said case had agreed to receive Rs. 10,00,000/-. In para No.2 it is mentioned that defendant No.16 Narayanappa (present impleading applicant) has no manner of right, title and interest in any of the suit schedule property including portion of the compensation amount awarded and

deposited by B.D.A. in L.A.C. No.54/2013. In Sub-para-3 of para No.5 it is further agreed that balance amount of Rs.25,00,000/- each to plaintiff and defendant No.4 and Rs.10,00,000/- to defendants 5 to 13 and 17 to 19 and Rs. 10,00,000/- to the defendant No. 16 shall be payable to them within 4 months upon receiving the full amount from the defendant No.15 Smt. Pushpalatha as per the settlement entered between the defendants 1 to 3 and defendant No.15 in O.S.No. 133/2018. The settlement discloses that Sy.No. 104/2 is one of the suit schedule property.

.11. It is stated that the claimant No.1 had filed O.S.No. 133/2018 against claimants 4 to 6 and their families in-respect of Sy.No. 104/4, 104/2 and Sy.No. 87, which has been acquired for formation of Kempegowda layout. The said suit is amicably settled between the claimants. The claimants 4 to 6 have agreed to receive Rs. 9,62,50,000/- and 7 sites, which are released by the B.D.A. instead of monetary compensation for acquired lands and the claimants 4 to 6 and their family members have declared that claimants 4 to 6 have no further claim against the claimant No.1 or with B.D.A. in-respect of suit properties including claimants 4 to

6.They have no objection to claimant No.1 to withdraw the compensation deposited in his name or get release of sites and other benefits from B.D.A. including compensatory sites. It is stated that claimants 4 to 6 have received a sum of Rs. 9,32,50,000/- which includes the compensation deposited in this case and claimant No.1 has got released benefits from B.D.A. in-respect of acquired properties of Sy.No. 104/4 and 87 and 5 sites were given in the name of claimants 4 to 6. The compensation amount in-respect of Sy.No. 104/2 is only remains for consideration. It is stated that as per the decree in O.S.No. 1293/2009 the claimants 4 to 6 have paid Rs. 10,00,000/- to the impleading applicant as his share in the joint family properties.

.12. The claimants 4 to 6 have contended that mother of the proposed claimant late. Narasamma passed away more than 35 years back and her father and father of these claimants died earlier to 1947 before the Hindu Succession Act came into force. As mother of proposed claimant Narasamma and her father died earlier to 09.09.2005 the date of Hindu Succession Act came into force, her legal heirs will

not get any right, title and interest in the ancestral properties of her father.

.13. From the records, it is seen that as per the settlement in O.S.No. 1923/2009, the impleading applicant had agreed to receive Rs. 10,00,000/- and has given up his right in-respect of compensation amount awarded and deposited by B.D.A. in L.A.C. No. 54/13. If the impleading applicant is not received the amount remedy for the impleading applicant has to approach proper forum and not seek for the same in the present case. I am of the view that the application filed by the impleading applicant is not maintainable. Accordingly point No.1 for consideration is answered in the **negative**.

.14. **Point No.2:** In view of my finding on the above point No.1, I proceed to pass the following:

ORDER

IA No.3 filed by the impleading applicant Narayanappa under Order 1 Rule 10(2) R/w Section 151 of CPC is dismissed.

(Dictated to the Judgment Writer, transcribed by her, revised by me and after corrections, pronounced in open Court on this the 2nd day of July, 2022.)

(Sheila B.M.)
II Addl. City Civil and Sessions Judge,
& Spl. Judge, Bangalore.

