

Dated: 3.10.2018

LAC No.1/2018

ORDER

- 1) This is a reference petition u/s 30 of L.A Act for apportionment of compensation in respect of lands acquired in Sy.No. 119/A & B situated at Markal village Humanabad Taluk.
- 2) The respondent no.3 Sumitrabai w/o Late Shravan Kumar and heirs of late Eshwaribai and Late Shravankumar have filed I.A.No.2 u/s 151 of C.P.C dated 29-8-2018 seeking for payment of undisputed amount of Rs.78,59,033/- to be paid to them out of total compensation deposited in the case.
- 3) I.A.No.1 was filed by L.Rs of Shravankumar and Eshwaribai U/o 22 Rule 4 r/w sec. 151 of CPC to come on record as L.Rs. The respondents have filed documents in support of their contentions.
- 4) R-2 and R-3 in the case by name Vinod Kumar and Anilkumar sons of Late Eshwaribai and Shravankumar have opposed the said I.A.No.2, by contending that their father late Shravankumar had purchased the acquired lands out of his own income in the names of Sumitrabai and Eshwaribai and that it is an ancestral property. It is contended that they are illegitimate sons born to Shravankumar through Kamalabai and since taken for partition was not fulfilled by other respondents, they have already initiated the suit for partition and separate possession in respect of the acquired land and other properties in OS.No. 70/2014 on the file of Senior Civil Judge and CJM Bidar . They have contended that their also L.Rs for Shravankumar and that their also entitled for compensation. They have produced the certified copy of amended plaint in OS.No. 70/2014.
- 5) On perusal of the records, I find that the respondents 2 and 3 Vinodkumar and Anilkumar.
- 6) Heard both sides.

- 7) The suit for partition is still pending in OS.No. 70/2014. They have claimed 1/8th share each in suit schedule A and B properties. R-3 Sumitrabai and other L.Rs of Eshwaribai have disputed the relationship of Vinod Kumar and Anilkumar. Hence, the finding is required on the said aspect of the matter in OS.No. 70/2014. However, as regards I.A.I I find that L.Rs. Stated therein and Sumitrabai R-3 are the L.Rs of Shravankumar and Eshwaribai, as could be seen from the revenue and other undisputed documents produced by them. As such I.A.I deserves to be allowed.
- 8) In so far as, I.A.2 for payment is concerned, the Spl. L.A.O has deposited in all Rs.1,04,78,711/- as compensation amount in respect of the acquired lands. This is a reference petition u/s 30 of L.A.Act after inquiry the apportionment of the amount is to be made and amount is to be disbursed to the claimant accordingly. Even after taking into consideration the claim of R-2 and R-3 Vinodkumar and Anilkumar that they are illegitimate sons of Late Shravankumar born through Kamalabai, their claim is 1/8th each in OS.No. 70/2018 and together it comes to Rs.1/16th share in the compensation amount deposited in the case.
- 9) Indisputably, 18 acres 20 guntas of land in sy.no. 119/A & B of Markal village has been acquired and aforesaid compensation is deposited by SLAO. As such, even if the said R-2 & R-3 succeeded in OS.No.70/2014, till be entitled to claim only respective share of 1/8th share out of the deposited amount. They have no manner of right, or claim over other undisputed portion of the amount in the case. The said amount is lying in the Court CCD which does not fetch any interest.
- 10) Considering the claim of both sides, I am inclined to allow I.A.2 and release undisputed amount of Rs.78,59,033/- to R-3 Sumitrabai and other heirs as shown in I.A.I. In so far as other disputed amount of Rs.26,19,678/-, it can be ordered to be kept as F.D in SBI main Branch Bidar in the name of the Court till further orders show that after filing adjudication in the case, the

said amount can be disbursed. Accordingly I.A.2 is to be allowed in the above terms.

11) Accordingly, I proceed to pass the following:

ORDER

I.A. filed u/o 22 Rule 4 r/w sec. 151 of CPC is hereby allowed. The L.Rs are ordered to be brought on record and arrayed as L.Rs of Shravankumar and Eshwaribai and permitted to amend the cause title accordingly.

I.A.No.2 filed u/s 151 CPC is hereby allowed and it is ordered that R-3 Sumitrabai and other L.Rs of Eshwaribai and Shravankumar (excluding R-2 Vinodkumar and R-3 Anilkumar) are entitled to receive undisputed sum of Rs.78,59,033/- which is lying in the CCD of the Court.

The office to cause keeping of remaining amount of Rs.Rs.26,19,678/- as FD in the name of the Court at SBI Main Branch till final adjudication of the matter and same will be disbursed during passing of final orders in the case.

Call on for amendment of the cause title

by 9-10-2018

(M.CHANDRASHEKAR REDDY)
Addl. Dist. & Sessions Judge, Bidar