

Orders on I.A.No.I under section 151 of CPC filed by the claimant

The applicant/claimant filed this application prays to re-open the case and permit Lrs of claimant to adduce their evidence, pending disposal of this case for the reason stated in the accompanying affidavit.

2. The applicant/Lr of claimant sworn to in the affidavit for herself and on behalf of her two children who are legal heirs of deceased claimant Sri.Venkategowda @ P.D.Umesh in the case, the deceased claimant Sri.Venkategowda @ P.D.Umesh died on 26.07.2018 during the pendency of this case leaving behind his wife Smt.Lakshmi.P.R and two children namely Swaroop.P.U and Meghana.P.U. That her husband deceased claimant Sri.Venkategowda @ P.D.Umesh has filed this case against

the respondents for enhancement of compensation. That on the previous dates of hearing as claimants have not appeared before the court, the court was pleased to take the evidence of claimant as nil and also respondent evidence nil and posted the case for arguments. Further she submit that recently she obtained the death certificate and contacted her advocate and her advocate informed the said fact, hence she is filing this application alongwith application to set-aside the abatement and limitation if any and to bring the legal heirs of deceased claimant Sri.Venkategowda @ P.D.Umesh on record. Further she submit that non-filing of annexed applications and also non-examination of claimant before the court on previous dates of hearing was not intentional but only due to bonafide and valid reason. Further she submit that if this application is allowed and if this case is reopened, no prejudice and hardship and injury will be caused to the respondents. On the other hand, if this application is not allowed and not reopened, she will be put to great hardship and injury will be caused to her. On the above grounds prays to re-open this case.

3. The learned DGP appearing for respondents has filed objections to this application contending that the above application is not maintainable either in law or on facts and is liable to be dismissed in limine. That the averments in the application and statements sworn to in support are all false and concocted. That the petitioner has not assigned any cogent reason for not adducing evidence. That the petitioner has not lead evidence inspite of taking several adjournments. That the court has posted the case for the arguments on 27.11.2019 even on that day, the petitioner has not lead evidence. On the above grounds prays to dismiss the application.

4. Heard the arguments on both side.

5. The point that arise for my consideration is as follows.

“Whether the applicant/claimant has made out a ground to re-open the case and permit Lrs of claimant to adduce their evidence?”

6. My answer to the above point is in the ‘Affirmative’ for the following reasons.

REASONS

7. The petitioner being aggrieved by the award of the respondents authorities made an application u/s. 64 of The Right to Fair Compensation and Transparency in Land Acquisition, rehabilitation and Resettlement Act, 2013 (also Land Acquisition Act, 2013) seeking reference on the grounds that the learned SLAO has not applied his mind to the nature of the land, crops grown, existing irrigation facilities and its potentiality at the time of determining the just and fair market value to their lands. The case has been posted for arguments and the petitioner has come-up with this application seeking to re-open the case and permit the petitioners to lead evidence on their behalf. The petitioner has contended that the deceased claimant Sri.Venkategowda @ P.D.Umesh died on 26.07.2018 during the pendency of this case leaving behind his wife Smt.Lakshmi.P.R and two children namely Swaroop.P.U and Meghana.P.U. and the petitioners were unable to appear before the court and lead evidence. That recently they have secured the relevant documents which are necessary to prove their contention. If this application is allowed, no loss or injustice will be caused

to the respondents as they will be given every opportunity to cross-examine PW-1, on the other hand, if the same is rejected, the petitioners will lose an opportunity to put forth their case properly. Hence in order to avoid multiplicity of proceedings and to conduct fair trial in the interest of justice and equity, I answer point No.1 in the affirmative. In view of the discussion made above, I proceed to pass the following :-

ORDER

I.A.No.1 filed by the applicant/claimant under section 151 of CPC to recall the order dated 21.11.2019 and permit her to lead evidence is hereby allowed.

The case is reopened for petitioner side evidence on 24.01.2020.

II ADJ,
Mandya.

