



**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

K. VENKATASWAMY & ORS. ...APPELLANT(S)

[illegible]

VIKRAM NATH, J.

1. Heard.
2. Leave granted.
3. The principal question that falls for consideration is whether the First Appellate Court could, in the second round of litigation, interfere with the findings recorded by the Principal Civil Court pursuant to its own remand directions issued under Section 3H(4) of the National Highways Act, 1956.
4. The present appeal has been preferred by the appellants assailing the judgment and order dated 19th December, 2023, passed by the High Court of Karnataka at Bengaluru¹ in Regular First Appeal No. 1381 of 2014, whereby the Division Bench partly allowed the appeal preferred by respondent No. 1 against the judgment and

¹ Hereinafter, referred to as “High Court”.

award dated 25th July, 2014, passed by the Senior Civil Judge, Nelamangala² in LAC No. 57 of 2012. By the impugned judgment, the High Court set aside the finding of the Reference Court declaring appellant Nos. 1 to 3 as the absolute owners of the acquired land and consequently entitled to receive the entire compensation amount arising out of the acquisition proceedings.

Facts of the case: –

5. The brief facts, essential for the disposal of the present appeal, are that pursuant to notifications issued by the Central Government during the years 2002-03 under the provisions of the National Highways Act, 1956,³ certain lands, including the land in dispute, came to be acquired by respondent No. 2, namely the Special Land Acquisition Officer/Competent Authority.

6. According to the appellants, the acquired land originally belonged to one Late Kempaiah, the father of appellant No. 1 and father-in-law of appellant Nos. 2 and 3, who had acquired title thereto under a registered sale deed executed during the year 1950-51. It is their case that upon the demise of Late Kempaiah, the title and interest in the acquired property devolved upon the appellants as his legal heirs and successors-in-interest.

² Hereinafter, referred to as “Reference Court”.

³ For short, “NH Act”.

7. In this regard, respondent No. 2, acting as the Competent Authority, passed an award under Section 3G of the NH Act determining compensation in the sum of Rs. 20,32,931/- for acquisition of the subject land. However, before the compensation could be disbursed, a dispute arose between the appellants and respondent No. 1, the latter asserting a competing claim over the acquired property and, consequently, over the compensation amount payable therefor. In view of the rival claims, respondent No. 2 withheld disbursement of the compensation.

8. Aggrieved thereby, the appellants approached the High Court by way of Writ Petition No. 44750 of 2003 seeking a direction to respondent No. 2 to release the compensation amount in their favour. The High Court, by order dated 8th March, 2004, disposed of the writ petition directing respondent No. 2 to determine the entitlement to compensation in accordance with Section 3H(3) of the NH Act. The High Court further observed that if any dispute arose with regard to the apportionment of compensation or entitlement thereto, the matter could be referred to the Reference Court under Section 3H(4) of the Act.

9. Since respondent No. 2 was unable to conclusively determine the rival claims to the compensation amount, the dispute was ultimately referred to the Reference Court under Section 3H(4) of the NH Act for adjudication.

10. The Reference Court, by judgment and award dated 21st March, 2009, passed in LAC No. 267 of 2007, answered the reference in favour of the present appellants and held them entitled to receive the compensation amount arising from the acquisition. Consequently, the rival claim set up by respondent No. 1 was rejected.

11. Aggrieved by the aforesaid judgment, respondent No. 1 preferred an appeal⁴ before the High Court.

12. The High Court, by judgment dated 9th March, 2012, set aside the decision of the Reference Court and remanded the matter for fresh consideration. While doing so, the High Court observed that the appellants had failed to produce the sale certificate or the foundational title document under which their predecessor-in-interest, namely Late Kempaiah, was stated to have acquired the property in dispute.

13. Considering the rival claims of title advanced by the parties, the High Court deemed it appropriate to afford them an opportunity to adduce further evidence and directed the Reference Court to reconsider the matter afresh. The Reference Court was specifically required to examine whether the acquired land belonged to Late Kempaiah, through whom the appellants traced their title, or to the grandfather of respondent No. 1, as claimed by

⁴ Regular First Appeal No. 1349 of 2010.

him. Being relevant, the operative portion of the judgment is extracted hereinbelow: -

“8. According to us, the only dispute is whether Channamaregowda had purchased Sy. No. 94 in a public auction conducted and whether Channamaregowda had any right to convey Sy. No. 94 in favour of Kempaiah. If the claimants-2 to 4 are able to establish that Sy. No. 94 was the subject matter of the public auction and Channamaregowda had become the owner of Sy. 94, automatically they have to be declared as the owners of Sy. No. 94. But the fact remains that there is a dispute in regard to the ownership in respect of Sy. No. 94 of Sompura village much prior to the acquisition of the property by the National Highway Authorities. Between the appellant and respondents-2 to 4 several proceedings are pending. A suit was instituted in O.S. No. 260/94. A suit is also instituted for bare Injunction and Writ Petition was also filed claiming right in respect of the same land by the same parties. In spite of such disputes pending before the court, the reference court without considering that the sale certificate has not been produced by the respondents-2 to 4, has erroneously held that respondents-2 to 4 are entitled for the compensation, which according to us is perverse and bad in law because under Ex. P2 it is clearly recited that in the sale certificate Sy. No. had been shown as 84 but the sale deed executed in respect of 94, therefore, it was for the respondents 2 to 4 produce the sale certificate or summon documents from the Government to show that the property-sold in public auction was Sy. No. 94 and it was wrongly mentioned as 84. The Trial Court without considering this crucial aspect, even though respondents 2 to 4 have not placed the sale certificate before the court below only relying upon Ex. P2, the claim of the respondents 2 to 4 is allowed, which according to us is bad in law in view of the recital in Ex. P2.

9. In the circumstances, we have to set aside the findings of the court below and remand the matter to the court below to reconsider the matter afresh giving opportunity for both the parties to let in evidence and find out whether Sy. No. 94 was sold in public auction and whether Channamaregowda had any right to convey the property to Kempaiah and also it is for the Trial court to decide whether the grandfather of the Appellant, Thimmarayappa was the owner of the property, whether Thimmarayappa's

property in Sy. No. 94 was not sold and whether the appellant has succeeded or inherited to Sy. No. 94 in order to consider her claim.”

14. It deserves to be noted that the remand ordered by the High Court in the first round of litigation was confined to a limited purpose. The High Court did not hold that the Reference Court lacked jurisdiction to examine the rival claims of the parties. Rather, it found that the evidence then available on record was insufficient to conclusively determine the source of title claimed by either side. Consequently, the matter was remitted to enable the parties to adduce further evidence regarding their respective claims.

15. Since both sides traced their rights through their respective ancestors, the scope of remand was specifically directed towards ascertaining whether the acquired property belonged to Late Kempaiah, through whom the appellants claimed title, or to the grandfather of respondent No. 1, through whom the latter asserted his claim. Thus, the remand was limited to a fresh determination of the issue of title on the basis of additional evidence and did not reopen any other aspect of the proceedings.

16. Upon remand and after affording both parties an opportunity to adduce additional evidence, the Reference

Court reconsidered the matter⁵ and, by judgment dated 25th July, 2014, answered the reference in favour of the present appellants. The Reference Court found that the appellants had successfully established the title of their predecessor-in-interest, Late Kempaiah, by producing the certified copy of the sale certificate evidencing acquisition of the suit property. Consequently, it held that the appellants were entitled to receive the compensation amount payable in respect of the acquired land.

17. Aggrieved, the respondent No. 1 filed appeal⁶ before the High Court.

18. The Division Bench, by the impugned judgment, took the view that the jurisdiction of the Reference Court under Section 3H(4) of the NH Act is confined to apportionment of compensation and does not extend to adjudication of disputes relating to title. Proceeding on that basis, the High Court partly allowed the appeal and set aside the judgment and award dated 25th July, 2014 insofar as the Reference Court had declared the appellants to be the owners of the acquired land and consequently entitled to receive the compensation amount.

19. Aggrieved the appellant is before us.

⁵ LAC No. 57 of 2012.

⁶ Regular First Appeal No. 1381 of 2014.

Analysis and Discussion: –

20. At the very outset, we must express our inability to concur with the approach adopted by the High Court. The impugned judgment proceeds on a fundamental oversight, namely, the failure to appreciate the limited scope within which the matter had been remanded by the High Court itself in the earlier round of litigation.

20.1. A perusal of the remand order dated 9th March, 2012 passed in RFA No. 1349 of 2010 leaves no manner of doubt that the High Court had specifically directed the Reference Court to afford an opportunity to the parties to adduce further evidence and thereafter determine, on the basis of such evidence, as to which of the rival claimants possessed title to the acquired property. The very purpose of the remand was to enable the Reference Court to return a finding on the issue of title after considering the additional material that may be produced by the parties.

21. In such circumstances, the reasoning now adopted by the High Court that the Reference Court lacked jurisdiction to examine the question of title completely undermines the basis on which the remand was earlier ordered. If the Reference Court was indeed devoid of jurisdiction to adjudicate title, there would have been no occasion for the High Court in the first round to remit the matter for the specific purpose of determining whether the

acquired property belonged to the predecessor of the appellants or to the ancestor of respondent No. 1.

22. The consequence of the impugned reasoning is that the High Court has, in substance, sat in review over its own earlier order, notwithstanding the fact that the remand order had attained finality *inter partes*. Once the remand order dated 9th March, 2012 was accepted by the parties and was not subjected to any further challenge, the directions contained therein became binding upon both the parties as well as the Reference Court. The proceedings thereafter were necessarily required to be conducted within the four corners of the remand directions.

Scope of reference under Section 3H of NH Act: –

22.1. At this stage, it becomes necessary to examine the true scope and ambit of Section 3H of the National Highways Act, 1956. Since the controversy in the present appeal turns upon the interpretation of sub-section (4) thereof, the relevant provisions are extracted below: -

“3H. Deposit and payment of amount.– (1) The amount determined under section 3G shall be deposited by the Central Government in such manner as may be laid down by rules made in this behalf by that Government, with the competent authority before taking possession of the land. (2) As soon as may be after the amount has been deposited under sub-section (1), the competent authority shall on behalf of the Central Government pay the amount to the person or persons entitled thereto.

(3) Where several persons claim to be interested in the amount deposited under sub-section (1), the

competent authority shall determine the persons who in its opinion are entitled to receive the amount payable to each of them.

(4) If any dispute arises as to the apportionment of the amount or any part thereof or to any person to whom the same or any part thereof is payable, the competent authority shall refer the dispute to the decision of the principal civil court of original jurisdiction within the limits of whose jurisdiction the land is situated.

...”

22.2. Section 3H was introduced by Act 16 of 1997 as part of the comprehensive legislative framework governing acquisition of land for National Highways. While the amendment sought to facilitate expeditious acquisition for development of national highway infrastructure, it simultaneously recognised the corresponding right of persons deprived of their property to receive just compensation.

22.3. The scheme of Sections 3G and 3H is, therefore, complementary. Section 3G provides for determination of the amount payable upon acquisition, whereas Section 3H prescribes the mechanism for its deposit and disbursement. Under sub-section (2), the competent authority is under a statutory obligation to disburse the compensation to the person or persons entitled thereto. Where rival claims are raised, sub-section (3) casts a further duty upon the competent authority to determine, in its opinion, the persons entitled to receive the compensation and the extent of their respective shares.

22.4. Recognising, however, that disputes of a more complex nature may arise, Parliament enacted subsection (4). It provides that where any dispute arises either regarding the apportionment of the compensation or regarding the person to whom the compensation, or any part thereof, is payable, the competent authority shall refer the dispute to the principal civil court of original jurisdiction within whose territorial jurisdiction the acquired land is situated.

22.5. The expression “*any person to whom the amount... is payable*” cannot be read in isolation or assigned a narrow meaning. The entitlement to receive compensation necessarily flows from the legal right over the acquired property immediately prior to its acquisition. Consequently, where rival claimants assert competing rights to the acquired land, the determination of the person entitled to receive compensation inevitably requires an adjudication of the underlying claim of title. Such an inquiry is incidental and integral to the jurisdiction conferred under Section 3H(4).

22.6. We are, therefore, unable to concur with the view taken by the High Court that the Reference Court lacks jurisdiction to examine disputes relating to title. To accept such an interpretation would render the expression “*person to whom the amount is payable*”

otiose and substantially defeat the object of the reference contemplated under Section 3H(4). A reference to the principal civil court is not intended to be a mere ministerial exercise of dividing the compensation amongst claimants. Its purpose is to secure a judicial determination of the person lawfully entitled to receive the compensation where such entitlement itself is disputed.

22.7. The jurisdiction exercised by the Reference Court under Section 3H(4) is, therefore, wide enough to incidentally determine questions of title insofar as such determination is necessary for deciding the person entitled to the compensation arising out of the acquisition. Any contrary interpretation would frustrate the legislative scheme and compel parties to simultaneously pursue independent civil suits for declaration of title, thereby defeating the very object of referring the dispute to the principal civil court.

23. Equally, we find no merit in the contention advanced by respondent No. 1 in the second round of litigation that the Reference Court could not have gone into the question of title. Having obtained a remand specifically for adjudication of that very issue, respondent No. 1 cannot be permitted to approbate and reprobate. A litigant who has taken the benefit of a remand order cannot subsequently challenge the jurisdiction of the forum to

which the matter was remitted merely because the findings ultimately returned are averse to him.

24. If respondent No. 1 was genuinely of the view that the Reference Court lacked jurisdiction to determine title, the proper course would have been to seek clarification, modification, or challenge to the remand order itself. Having allowed the remand order to attain finality and having participated in the proceedings pursuant thereto, it was no longer open to respondent No. 1 to contend that the Reference Court acted beyond its jurisdiction while carrying out the very exercise directed by the High Court.

25. Once the Reference Court adjudicated the matter in accordance with the remand directions and returned findings on the basis of the evidence led by the parties, the scope of appellate scrutiny thereafter was necessarily limited. The High Court was required to examine whether the findings so recorded were perverse, unsupported by the evidence on record, or otherwise contrary to law. Instead, the High Court chose to non-suit the appellants on a jurisdictional objection which stood foreclosed by its own earlier order.

26. On this short ground alone, the impugned judgment becomes unsustainable.

27. Consequently, the judgment and order dated 19th December, 2023, passed by the High Court of Karnataka

at Bengaluru in Regular First Appeal No. 1381 of 2014 is hereby set aside.

28. However, having regard to the fact that the High Court disposed of the appeal solely on the question relating to the scope and ambit of Section 3H(4) of the NH Act and did not examine the correctness of the findings recorded by the Reference Court on the merits of the rival claims pursuant to the remand order dated 9th March, 2012, we are of the considered view that the interests of justice would be best served by remitting the matter to the High Court for a fresh consideration of the appeal.

29. We, therefore, restore Regular First Appeal No. 1381 of 2014 to the file of the High Court for disposal afresh on its own merits and in accordance with law.

29.1. It is made clear that the issues concluded by the earlier judgment and remand order dated 9th March, 2012 shall not be reopened. The High Court shall confine its consideration to examining whether the findings recorded by the Reference Court pursuant to the remand are sustainable on the evidence available on record and in accordance with the directions contained in the remand order.

29.2. It is further clarified that the correctness of the Reference Court's assumption of jurisdiction to adjudicate the rival claims of title shall not be reopened, the issue having attained finality by virtue of the

remand order dated 9th March, 2012 and, in any event, in view of the interpretation of Section 3H of the National Highways Act, 1956, as rendered by us hereinabove.

29.3. The appeal is accordingly allowed to the aforesaid extent.

29.4. Considering that the dispute has remained pending for over two decades, we request the High Court to dispose of the restored first appeal as expeditiously as possible.

29.5. Needless to clarify, the compensation amount deposited pursuant to acquisition proceedings shall not be disbursed to any party until the restored first appeal is finally decided on merits and shall be disbursed based upon the outcome of the said appeal.

30. Pending application(s), if any, shall stand disposed of.

.....J.
[VIKRAM NATH]

.....J.
[SANDEEP MEHTA]

**NEW DELHI;
APRIL 17, 2026**