

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

**Dated this the 19<sup>th</sup> day of July, 2025.**

**PRESENT:**

**Sri. Padma Prasad, B.A.Law.LL.B.**  
II Addl. City Civil and Sessions Judge, Bangalore.

**Ex. No.19/2022**

**Decree Holder:** Sri. M. Venkatesh Dead by his LRs

**-VERSUS-**

**Judgment Debtors:** The SLAO, BBMP and another

**Objector:** Smt. Umadevi  
W/o D. N. Ramaiah  
Aged about 68 years  
R/at no 418, 12<sup>th</sup> Cross  
Sadashivanagar  
Bengaluru – 560 080.

**(Sri. N.G. Advocate)**

**Orders on objector's application**

In this case I.A. No.5 filed by the Objector namely Smt. Umadevi under Order 21 Rules 97 and 99 R/w Sections 47 & 151 of CPC praying to adjudicate the claim of the applicant / Objector in the Execution Petition and that has been allowed and thereafter the court recorded the

evidence of parties regarding the claim of Objector that she is also entitled for share in the award amount.

.2. The claim of the Objector Umadevi is that the present Execution Petition is filed to execute the Judgment and Award passed in L.A.C. No.81/2014 praying to direct the Judgment Debtor to pay the market value of the acquired property to an extent of 4276.32 Sq. feet of land in Sy. No. 38 of Yashavanthapura village. The specific claim of the Objector is that she has filed a suit for partition and separate possession against her mother Smt. Jayamma and her brothers in O.S. No. 7674/1999 in respect of property in Sy. No. 38, which is subject matter of the acquired land and also claimed that she is entitled to 1/10th share in the said property. Further she has stated that the judgment passed in O.S. No. 7674/1999 has been challenged in RFA No. 742/2009 and the dispute between the parties has been compromised and also filed a

compromise petition and the compromise decree has been passed in RFA No. 742/2009. The applicant Smt. Umadevi also reproduced the portion of the compromise decree in the petition. She also stated that apart from that L.A.C. No. 17/2014 and 98/2014, there are other two L.A.C. cases bearing L.A.C. No. 80/2014 and 81/2014 those are pending for adjudication and all the cases involved the subject matter of the land in Sy. No. 38 that has been acquired by BBMP and handed over to BMTC and the said fact was not within the knowledge of the applicant and recently she came to know about the said fact and thereafter obtained the judgment copy and came to know about all the facts and filed the present application. She has also stated that the applicant is entitled to receive a sum of Rs. 2 lakhs in lieu of her share in the compensation in L.A.C. No. 17/2014 and 98/2014. But there is no specific bar to the applicant to claim the compensation in the present Execution Petition arising out of

L.A.C. No. 81/2014. She has stated that the compromise between the parties in RFA No. 742/2009 does not come in the way to restrict the applicant to claim her legitimate right over the property in the said L.A.C. cases and among other grounds, she claims undivided rights over the compensation amount and prays to allow the application.

.3. The objection raised by the decree holder is that the application filed by the Objector is not maintainable either in law or on facts. The Decree Holders claim that the Objector is entitled for compensation in L.A.C. No. 17/2014 and 98/2014 and she is not entitled for any share in the compensation amount deposited in L.A.C. No. 81/2014 and the subject matter of L.A.C. No. 81/2014 is not a part of suit filed by the Objector and accordingly prayed that the Objector is not entitled for any share in the amount involved in this case and prayed for dismissal of the application.

.4. In view of the aforesaid facts, the point

for consideration is that

“Whether the Objector made out sufficient grounds to show that she has undivided right in the award amount and if it is so, what is her share in the award amount?”

.5. The Objector in support of her case examined herself as PW.1 by filing evidence affidavit and got marked the documents at Ex.O.1 to 9. The Decree Holders have not led any evidence and also not got marked some documents.

.6. Heard the arguments, perused the materials on record, on that basis, my finding on the above point is partly in the affirmative, for the following:

### **REASONS**

.7. **Point:** The claim of the Objector Smt. Umadevi is that she has undivided right over the compensation awarded in L.A.C. No. 81/2014 to the property measuring 4276.32 Sq. feet of the land in Sy. No. 38 of Yeshavanthapura village as

the said property is the joint family property of this Objector and Decree Holders and also claims that her right over the said property has been recognized and decreed in the compromise entered between her and the Decree Holders in this case along with other brothers of Decree Holders and Objectors.

.8. The specific defence of the Decree Holders is that whatever the share of Objector in the properties as well as compensation regarding the acquisition of property has been already paid by them to the Objectors as per the compromise entered between the parties. As such, this Objector is not entitled for any share in the compensation. Further claimed that the Objector has not filed any application before the LAO seeking reference to determine the market value, as such, the Objector is not entitled for any share in the compensation. Hence, the objection is liable to be dismissed.

.9. In this case, the acquisition of the aforesaid property and reference made to the court to determine the market value of the acquired property in L.A.C. No. 81/2014 is not in dispute, the enhancement of the compensation to the said property is also not in dispute.

.10. The claim of the Objector in the case is that the decree holders and the Objector are successors of Y. Muniswamappa and claimants 1, 10 to 13 in LAC No. 81/2014 are the brothers of Objector and claimants 3 to 8 are the children of objector's brother Krishnamurthy and claimant No.9(a) to (c) are also the children of her brother. Accordingly claimed that she has also undivided right over the said property as well as over the enhanced compensation.

.11. The definite claim made out by the Objector is that she has filed a suit for partition in O.S. No. 7674//1999 against the aforesaid claimants and the said suit has been decreed, wherein, the Court granted 1/10th share in the

aforesaid property along with other properties.

Further case made out by the Objector is that the judgment passed in O.S. No. 7674/1999 has been challenged by her brother M. Gopal / claimant No. 9 in RFA No. 742/2009 and in the said RFA, the parties have entered into a compromise. All these facts including the relationship claimed by the Objector and filing of the suit, decreeing of the suit, filing of Regular First Appeal in RFA No. 742/2009 as well as compromise entered between parties in RFA No. 742/2009, are undisputed and admitted facts. It is also relevant to note that the property measuring to an extent of 4276.32 Sq. feet in Sy. No. 38 of Yeshavanthapura village is the subject matter of the aforesaid suit and RFA and in the said suit, the competent Court passed the decree holding that this Objector had undivided right over the said property is also an admitted and undisputed fact. The acquisition of the said property by the BBMP is also an admitted fact.



.12. The disputed fact in the case is that after acquisition of the land by the BBMP, the SLAO has referred the case to the Civil Court to decide the apportionment of compensation in view of pendency of the suit in O.S. No. 7674/1999 and RFA No. 742/2009 in L.A.C. No. 17/2014 and L.A.C. No. 98/2014 for the apportionment of compensation. Accordingly, this Court has disposed off the said L.A.C. No. 17/2014 and L.A.C. No. 98/2014, which are referred under Sections 30 and 31 of L.A. Act.

.13. Meantime, except this Objector, the other claimants who are the brothers of this Objector have filed an application under Section 18 of the L.A. Act before the SLAO claiming that the proper compensation has not been granted and they are entitled for more compensation and prayed to refer the case to the Court to decide proper market value of the aforesaid acquired property. Accordingly the L.A.C. No. 80/2014 and

L.A.C. No. 81/2014 have been registered before the Court. The said fact is also not in dispute.

.14. In the case on hand, the specific defence taken by the decree holder or other claimants is that the Objector is not entitled for any compensation as she has not filed any application under Section 18 of L.A. Act to refer the case to the competent Court / Civil Court to decide proper market value. As such, the Objector is not entitled for any share in the compensation awarded in L.A.C. No. 80/2014 and L.A.C. No. 81/2014. The other defence of the decree holder or claimants is that the dispute between the Objector and claimants / decree holder in respect of the property involved in this case has been fully and finally settled in RFA No. 742/2009. As such, this Objector is not entitled for any share in the compensation awarded in L.A.C. No. 81/2014. As such, the application is liable to be rejected. With these case and defence of the parties the material on record to be

considered to ascertain whether the Objector has right to claim share in the compensation awarded in this case.

.15. As discussed earlier, the relationship between the Objector and the claimants/ Decree Holders is an admitted fact and also the competent Civil Court held that this Objector is entitled for 1/10th share in the acquired property and the said finding also reached the finality. As such, certainly this Objector has right over the property.

.16. The Objector in support of her case examined herself as OW.1 and got marked at Ex.O.1 to 9. Those documents are certified copy of the plaint in O.S. No. 7674/99, letter written to Tax Officer dated 01.03.1997, certified copy the Gazette notification dated 17.05.2013 for acquisition of property, copy of endorsement issued by the BBMP / LAO, certified copy of the order sheet in L.A.C. No. 81/2014, certified copy of the Gazette notification, award passed by the

LAO and certified copy of the IAs affidavit in L.A.C. No. No. 81/2014 respectively. Accordingly the Objector claimed that all these documents proves her case and she is entitled for share in the compensation. The Decree Holder cross examined the OW.1 in accordance with the objections taken by the Decree Holder to the Objector application. The specific defence of the Decree Holder is that what ever the share in respect of the property involved in this case has already been given as full and final settlement while entering into the compromise before the Hon'ble High Court of Karnataka in the aforesaid RFA. The Decree Holder not chosen to lead any evidence with the specific contention that the terms of the compromise entered between the parties in RFA is binding on the parties. In this case though the Objector produced several documents not got marked the compromise petition filed before the High court that has been pleaded in the Objector application as well as evidence affidavit. The

Objector while filing the I.A. No. 5 under Order 21 Rule 97/99 of CPC produced the order of Hon'ble High Court of Karnataka in RFA No. 742/2009 as document No.2. As the passing of the said order is not in dispute and the court certainly can take the judicial notice of the said order and considered the said order to dispose off the application and decide the share of this Objector.

.17. The Objector while filing the affidavit in support of I.A. No. 5 stated para No. 1 to 6 of the terms of compromise petition not stated para No.7 of the compromise petition. Why the said fact is not stated in the compromise petition as well as in her evidence affidavit is not at all explained. The said paragraph No.7 is the relevant paragraph to decide this case and the said condition No. 7 in the compromise petition and para 3.7 is relevant for this case that reads as under:

“7. It is submitted that, Y.Muniswamappa, the father of the Appellants and the respondents, had executed a will dated 17.12.1992, which

was registered on 30.03.1993, bequeathing his undivided 1/10th (One Tenth) Share only in the property bearing Nos. 17, i.e., Y.M.S.Kalyanamantapa, Tumkur Road, Yeshwanthapur, Bangalore-560 022 which is the Plaint B Schedule property measuring  $(360+290)/2$  ft. x  $(375 + 0) / 2$  ft. in favour of his daughter Smt M.Umadevi, the 1st respondent in this appeal and under the said will, the said Y.Muniswamappa, bequeathed his 1/10th (One Tenth) share in the property bearing No.18, Tumkur Road, Yeshwanthapur, Bengaluru, measuring  $(243 + 113)2$  x  $(332 + 165) / 2$  feet consisting of Gopal Theater and a Vacant land, in favour of his sons only i.e., Appellants and the 2nd respondent. The Appellants and 2<sup>nd</sup> respondent, out of their love and affection towards their sister i.e., the 1<sup>st</sup> respondent, though their father did not give any share to Smt. Umadevi in the property bearing No. 18, Tumkur Road, Yeshwanthapur, Bengaluru, have agreed to give 1/70th share (One Share out of Seventy Shares) or 1.43% (One Point Four Three Percent) to Smt. Umadevi the 1<sup>st</sup> respondent, in the property bearing No.18, Yeshwanthapur, Bengaluru North Taluk, which was measuring  $(243 + 113)2$  x  $(332 + 165) / 2$  feet totally measuring 44,233 Sq.ft. consisting of Gopal Theater and the vacant land. A portion of the said property measuring 7269 Sq.ft. came to be acquired by the BBMP for Road

Widening and construction of the Flyover, extent now available is 36,964 Sq.ft. (Thirty Six Thousand Nine Hundred and Sixty Four only) and out of the said extent the 1<sup>st</sup> respondent Smt.M.Umadevi is given 1 /70<sup>th</sup> or 1.43% (One Point Four Three Percent) undivided right, title and Interest”.

The aforesaid term / condition in the compromise to be read along with para No. 8 and 9 of the compromise petition. In para No. 9 it is specifically agreed between parties that reads as “accordingly Smt. Umadevi – the respondent No. 1 is entitled here-afterwards to claim only 1/10th share in the usufracts of the plaint ‘B’ schedule property and only 1/70th of the share in the property No. 18 Yashawanthapura, Bengaluru North Taluk”. Therefore, the specific term in the compromise between parties regarding property of Yashawanthapura bearing No. 18 shows that this Objector is only entitled for 1/70th share. The said terms in the compromise is certainly binding on the Objector and certainly share of the Objector will not be enlarged.

.18. The OW.1/ Objector Smt. Umadevi during her cross-examination specifically admitted that the property involved in this case is property bearing No. 18 consisting of Gopal Talkies. Therefore, the Objector is entitled for 1/70th share in the compensation and not 1/10th share in the compensation.

.19. In this case, the specific defence of the Decree Holder is that as per the terms of compromise, the Objector is not entitled for any share in the compensation as the claim of the Objector has been settled. At this juncture, It is relevant to note that this court while passing the order made specific observation that the parties have not stated anything about the pendency of L.A.C. No. 81/2014. Further undisputed fact is that this Objector is one of the co-sharer of the acquired property as such even if she is not filed any applications for enhancement of compensation even then Objector is entitled for her share in the enhanced compensation . In view



or the aforesaid discussion it is clear that as per terms of compromise entered between Objector and Decree Holders along with others the Objector is entitled only for 1/70th share in the property. When the Objector is entitled only for 1/70th share in the property then she is entitled for 1/70th share only in the compensation. Accordingly, the above point is answered partly in affirmative. In the result, following:

### **ORDER**

Objector application is hereby partly allowed.

Consequently it is ordered that the Objector Smt. Umadevi is entitled for 1/70th share in the compensation and the Decree Holder is entitled for 1/69th share in the compensation.

Considering the relationship between the parties, no order as to cost.

(Dictated to the Stenographer Grade-I, transcribed by her, revised by me and after corrections, pronounced in open Court on this the 19<sup>th</sup> day of July, 2025.)

(Padma Prasad)  
II Addl. City Civil and Sessions Judge,  
& Spl. Judge, Bangalore

**ANNEXURE**

1. WITNESSES EXAMINED FOR THE OBJECTOR :

O.W.1 : Umadevi

2. DOCUMENTS MARKED FOR THE PLAINTIFF:

Ex.O.1 : Certified copy of the plaint in O.S.  
No.7674/1999

Ex.O.2 : Certified copy of the letter written by  
Income Tax Officer dated 01.03.1997

Ex.O.3 : Certified copy of notice dated 17.05.2013  
with copy of Gazette notification

Ex.O.4 : Certified copy of endorsement

Ex.O.5 : Certified copy of the order sheet in L.A.C.  
No.81/2014

Ex.O.6 : Certified copy of the Gazette notification

Ex.O.7 : Certified copy of the award

Ex.O.8 & 9 : Certified copy of the IAs with affidavit in  
L.A.C. No. 81/2014

3. WITNESSES EXAMINED FOR DHRs and JDRs:

Nil

4. DOCUMENTS MARKED FOR DHRs and JDRs::

Nil

(Padma Prasad)  
II Addl. City Civil and Sessions Judge,  
Bangalore.

