

**Ram Salone Sharma and anr. Vs. Ram Ashrya Sharma and ors.**

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**SooperKanoon Citation :** [sooperkanoon.com/508978](http://sooperkanoon.com/508978)

**Court :** Madhya Pradesh

**Decided On :** Oct-23-2002

**Reported in :** 2002(4)MPHT542; 2003(3)MPLJ252

**Judge :** S.P. Khare, J.

**Acts :** [Land Acquisition Act, 1894](#) - Sections 18 and 30; [Code of Civil Procedure \(CPC\) , 1908](#) - Sections 9

**Appeal No. :** Civil Revision No. 239/98

**Appellant :** Ram Salone Sharma and anr.

**Respondent :** Ram Ashrya Sharma and ors.

**Advocate for Def. :** D. Bhatti, Adv. for Respondent Nos. 1 and 2, ;None for Respondent No. 3 and ;Kiran Mehta, Panel Lawyer for Respondent No. 4

**Advocate for Pet/Ap. :** None

**Disposition :** Revision allowed

**Judgement :**  
ORDER

**S.P. Khare, J.**

1. This is a revision by the plaintiffs against the order by which it has been held that the civil suit for declaration and injunction is not maintainable in view of Section 18 of the [Land Acquisition Act, 1894](#).

2. The petitioner's case is that the house in dispute situated in Village Ramnagar Jtma is their joint family property and of the defendant Nos. 1 and 2. According to plaintiffs, Dhanukdhari was the owner of this house. He had four sons. Plaintiff No. 1 Ramsalone, Defendant No. 1 Ramashraya and defendant No. 2 Ramlolar are three of them. Mangaldeen was also son of Dhanukdhari. He has died and plaintiff No. 2 Bhagwandas is his son. Thus, according to the plaintiffs they had half share in the house which has been acquired by the Land Acquisition Officer for Bansagar Project. The amount of compensation has been deposited. Half of the amount of compensation determined by the Land Acquisition Officer has been paid to the defendant Nos. 1 and 2 and the remaining half is still in deposit.

3. The defendant Nos. 1 and 2 submitted an application for dismissal of the suit on the ground that it cannot be entertained by the Civil Court and the proper Court-fee has also not been paid. The Trial Court upheld these objections and dismissed the suit.

4. After hearing learned Counsel for both the sides this Court is of the opinion that the order of the Trial Court suffers from jurisdictional infirmity. The plaintiffs are not challenging the amount of compensation which has been awarded by the Land Acquisition Officer. They are seeking declaration that they had half share in the house which was acquired and therefore, they have half share in the amount of compensation which has been deposited. It is well settled that the Civil Court has jurisdiction to try all suits of civil nature except those expressly or impliedly barred. So far as the exclusion of jurisdiction is concerned, it is equally well-settled that such exclusion is not readily inferred. It must be explicit or clearly implied. Even in cases where jurisdiction of the Civil Court is excluded there are circumstances under which a Civil Court may entertain a suit. A perusal of Section 30 of the L. A. Act also makes it absolutely clear that this section itself contemplates adjudication of disputes in regard to apportionment etc. by the Court. It simply provides for a simple procedure of reference by the Collector himself. The object is to save the

parties from unnecessary expenditure and wastage of time in filing a separate suit for the purpose. By any interpretation, from this provision, exclusion of jurisdiction of the Civil Court cannot be implied. A person claiming a part of the compensation awarded by the Collector in land acquisition proceeding under the L.A. Act is entitled to file a civil suit to establish his claim. (Asher Ali v. Sukhna, AIR 1992 Gauhati 1 and T.R. Sidhan v. Special Tehsildar, AIR 1975 Kerala 27).

5. The Trial Court has wrongly held that the suit cannot be entertained by the Civil Court. The Court-fee which has been paid by the plaintiffs On the relief of declaration is also proper.

6. This revision is allowed. Impugned order dated 24-10-1997 is set aside and the Trial Court is directed to proceed with the trial of the suit.

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