

(1961) 02 KL CK 0003

In the High Court Of Kerala

Case No : A.S. No's. 198 and 328 of 1959

Anantan Pillai and Another

APPELLANT

Vs

State of Kerala

RESPONDENT

Date of Decision : 03-02-1961

Acts Referred:

Travancore Land Acquisition Act, 1089 — Section 6

Citation : (1961) KLJ 352

Hon'ble Judges : T.K. Joseph, J; M.S. Menon, J

Bench : Division Bench

Advocate : T.S. Krishnamoorthi Iyer in A.S. 196 of 1959, for the Appellant; P.K. Krishnankutty Menon, P. Narendra Menon in A.S. 328 of 1959 and Government Pleader for State, for the Respondent

Final Decision : Dismissed

Judgement

T.K. Joseph, J

1. These appeals arise from Land Acquisition Reference No 8 of 1958 of the Additional Subordinate Judge's Court Trivandrum. A.S. No 198 is by the claimants who seek enhancement of compensation and A.S. No. 328 is by the State for reduction of the same to what was awarded by the Land Acquisition Officer. There was dispute between the parties about the area acquired and it was held by the court below that the land acquired was 9 acres and 6 cents in extent although the area was shown as 8 acres and 73 cents in the Settlement records. This finding is not objected to by the State so that the only question for decision is the value of the land. The Land Acquisition Officer divided the plot into three belts and awarded Rs. 250/- per cent for the belt near the main road, Rs. 200/- for the next and 150/- for the belt farthest from the road. The learned Subordinate Judge declined to follow this method and he awarded compensation at a flat rate of Rs. 250/- per cent of land. According to the claimants, land value should have been fixed at Rs. 275/- per cent while the State contends that the enhancement made is not justified.

2. We are satisfied that the court below was right in declining to adopt the system of belting for valuing the land. As pointed out by Mukerji and Guha JJ., in *Nityagopal v. Secretary of State* (A. I. R. 1933 Cat. 25) :

Of course there is almost always a distinction in value between front lands and back lands everywhere but that distinction would not obviously justify recourse to the belting system in each and every case. It is a highly artificial system and cannot be resorted to as a hard and fast rule.

A Bench of the Travancore-Cochin High Court discouraged the system of belting in *Kunjukrishna v. State* (A. I. R. 1953 T.C. 177). Sankaran J. (as he then was) observed:

The arbitrary manner in which the lower court divided the property into two for the purpose of valuation has undoubtedly caused considerable prejudice to the owner of the property. Such a method of valuation in land acquisition cases, which is technically known as valuation by belts by artificially dividing the property into belts or plots, is generally discouraged for the obvious reason that it involves a considerable extent of arbitrariness. Even while attempting to fix the value of the property for the purpose of awarding compensation on the basis of the evidence disclosing the price at which other properties in the neighborhood possessing similar advantages were sold at about the time of the acquisition, a certain degree of arbitrariness is inevitable. But care has to be taken to keep the scope of such arbitrariness in the matter of fixing the value of the property to the lowest level possible. That is the reason, why the method of valuation by belts, which is bound to be arbitrary and artificial, is generally condemned and discouraged.

We are in agreement with the above view. So far as the present case is concerned there is no justification for adopting this method which is resorted to only in cases where extensive lands having road only on one side is to be valued. Even if the system had to be adopted, the land could as well have been divided so that each plot would touch the main road. There is also no evidence to fix the value of the various belts into which the land was divided by the Land Acquisition Officer. The plot acquired in this case has a good public road on the west and another on the south. There is also a lane 10 links in width touching the northern part of the property. In the circumstances we are not inclined to assess compensation on the method of valuation by belts.

3. The decision of the court below was questioned broadly on three grounds: (i) that the court below ignored the fact that the property was purchased for Rs. 33,600/- in August 1956; (ii) that valuation was made on the basis of the price obtained for two small plots; and (iii) That deduction should have been made for laying out roads and providing other amenities before assessing the value of the land on the basis of price of building plots.

4. As regards the first ground it is true that the property was purchased by the claimants' father from the Maharaja of Travancore for a sum of Rs. 33,600/- in

August 1956. The declaration u/s 6 of the Travancore Land Acquisition Act was made on 27-12-1957. We have dismissed the application of the State for admission of this deed as additional evidence in appeal. However the fact that the purchase was for this sum is admitted. It has come out in evidence that the vendee was a trusted officer of the Palace who had served for 30 years as Treasurer of the Royal Household. The property was conveyed to him about two months before the Maharaja relinquished office as Raj Pramukh of the State of Travancore-Cochin. It may be that these considerations prevailed with the Maharaja in selling the property for such a low price. That the sum of Rs. 33,600/- does not represent the value of the property can be seen from the fact that the structures on the property were valued by the State for the purpose of this case at Rs. 24,652/- and the trees at Rs. 1,656.03. This is also clear from the admission of D. W. 1, examined on behalf of the State. He stated that the sum of Rs. 2,02,208.03 awarded by the Land Acquisition Officer as compensation (exclusive of solatium) was fair and reasonable. In view of this admission there is no point in the contention that compensation should have been fixed on the basis of the price paid for the property in August 1956.

5. The second and third grounds may be considered together. Before considering the evidence it may be observed that the property is within the limits of the City of Trivandrum. It is in evidence that a former Maharaja of the State used to drive to this place occasionally and spend the evening there. There is a public road on the western side of the property and another good road on the southern side. There is also a lane 10 links in width touching a part of the property on the north. The property was enclosed on three sides by a substantial wall. The Manakad market is $11\frac{1}{2}$ furlongs away from the property and there is a High School $13\frac{1}{4}$ furlongs away. The locality is one provided with electricity, water supply and drainage so that prospective buyers do not have to incur capital expenditure for these amenities.

6. Now we will consider the documentary evidence regarding value of the land. Exts. P. 3 and P. 4 are copies of two sale deeds executed on 15-3-1956 and 8-2-1956 respectively for small plots in the neighborhood but these are not helpful as there is no satisfactory evidence regarding the value of the structures on the plots. The learned Judge did not therefore place any reliance on these documents. Exts. P. 7 and P. 7(1) are two sale deeds executed by the claimants on 22-4-1957. The average price according to Ext. P. 7 is Rs. 275/- and that under Exts. P. 7(1), Rs. 290/- per cent. The area conveyed under each of these deeds is 5 cents. These plots are situated in the northern part of the third belt, away from the road. Neither of these plots touches the roads on the west or south and the only access to them is by a narrow lane from the north. Two objections were raised against Exts. P. 7 and P. 7(1). One was that the plots were comparatively small and that the price paid should not therefore be accepted as a basis for valuing a large area. It is true that small plots would fetch much higher price than extensive areas of which they form part but it has to be observed that these were in the back portion of the property and did not have

any access to the roads except by a narrow lane. Another objection was that the property would have to be divided into small plots for getting a good price, that this would entail the setting apart of part of the land for roads and that only the balance area should be available for sale. This did not escape the attention of the learned Judge who observed:

Due note of this fact has to be considered, in fixing the value of the property on the basis it may fetch, if sold after dividing into sub plots. Considering all these circumstances I would hold that the value of the property acquired may be fixed at Rs. 250/- per cent on a flat rate.

The state could have adduced some evidence regarding the area that would have to be deducted for roads and pathways but there is no such evidence. We may observe that if a small plot in the rearmost belt could fetch a price of Rs. 275-290 per cent, the area adjoining the two roads should be valued at a much higher rate. The learned Judge awarded compensation fixing the price of land at Rs. 250/- per cent which we consider quite fair and reasonable in the circumstances.

7. A faint attempt was made during the cross-examination of P. W. 4 to show that an inflated price was shown in Exts. P. 7 and P. 7(1) as P. W. 4 was aware of the impending acquisition. P. W. 4 who was asked when he came to know of it stated that he heard about the proposed acquisition only two weeks before it was notified and there is no reason to disbelieve him. A. S. No. 328 of 1959 must, in the circumstances, be dismissed.

8. Coming to A.S. No. 198 of 1959, we have already held that (the price fixed by the lower court is fair and reasonable. If the plots sold under Exts. P. 7 and P. 7(1) were fairly extensive, there would have been some justification in asking for enhancement but such is not the case. A. S. No. 198 of 1959 must also be dismissed. Before parting with the case we must refer to an averment in the written statement of the State. It was stated: "The State is prepared to give back the property to the plaintiffs if the compensation amount awarded is refunded by them". It appears to us that there was no purpose in making such a statement unless it was to prejudice the court against the claimants.

In the result, we confirm the decree of the court below and dismiss A. S. Nos. 198 and 328 of 1959 with costs.