
(1919) 08 MAD CK 0008
In the Madras High Court

Kasturi Pillai

APPELLANT

Vs

The Municipal Council

RESPONDENT

Date of Decision : 07-08-1919

Acts Referred:

Land Acquisition Act, 1894 — Section 16

Citation : (1920) ILR (Mad) 280 : (1919) 10 LW 331 : (1919) 37 MLJ 618

Judgement

1. u/s 16 of the Land Acquisition Act, (Act I of 1894) the making of an award and taking possession of land vest the property absolutely in the

Government. It has been argued, that if notice on the occupier had not been served in accordance with Section 9(3) and Section 45, the

subsequent proceedings and the award are void.

2. Assuming that such service has not been sufficiently proved in the present case, Section 12 provides that the award shall be final and conclusive,

whether the persons interested have appeared or not, as to the question which can be dealt with by the Collector u/s 11, subject to the right of the

party to require a reference to the Court u/s 18. The declaration made by the Government u/s 6 is conclusive evidence that the land is needed for

the purposes sanctioned by the Act. All that the parties interested can urge before the Collector is that the area of the land is not properly stated,

the compensation proposed is insufficient and the amount has been wrongly divided amongst them. The defendant had notice of the award, u/s 12

and his remedy was therefore to apply for a reference u/s 18, and no other remedy is provided by the Act.

3. We think that the decisions cited by the learned Vakil for appellant have no bearing on the point. That reported in Rameswar Singh v. Secretary

of State ILR (1907) Cal. 470 does not relate to the acquisition of land, but merely decides that the owner of a franchise can sue for damages when land necessary to the exercise of his rights has been acquired without notice to him; it does not deal with the validity of the award and the vesting of the land thereunder. That reported in Balakrishna Rao v. The Secretary of State for India ILR (1915) Mad. 494 decides that a Forest Officer exercising judicial functions does not acquire jurisdiction until notice of his proceedings has been given to the party interested. The Collector in making his award is not acting judicially. In any case, the award must be regarded as passing title to the property u/s 16, until it has been set aside, and we think that it cannot be treated as void in a suit in ejectment.

4. The case in Ganga Ram Marwari v. Secretary of State ILR (1903) Cal. 576 is precisely in point and we respectfully agree with that decision.

5. The Second Appeal is dismissed with costs.