
(1930) 04 MAD CK 0013
In the Madras High Court

K.T. Muthuveerappa Pillai

APPELLANT

Vs

The Revenue Divisional Officer

RESPONDENT

Date of Decision : 29-04-1930

Acts Referred:

Land Acquisition Act, 1894 — Section 27(3)

Citation : 129 Ind. Cas. 681 : (1930) 32 LW 893 : (1930) 59 MLJ 682

Judgement

1. A preliminary objection is taken that the appeal does not lie. It is contended that the order appealed against is not an award and Dembeswar

Ssarma v. The Collector of Sibsagar (1917) 39 I.C. 637 Banshidhur Marwari v. The Secretary of State for India ILR (1926) C. 312 and Sarat

Chandra Ghose v. The Secretary of State for India ILR (1919) C. 861 are relied on. In the first of these cases the application for reference was

made beyond the time allowed. No reference ought to have been made in that case and the District Judge refused to make an award on that

ground. The High Court held properly that no appeal lay. In Banshidhur Mar-wari v. The Secretary of State for India ILR (1926) C. 312 the

appeal was against an order refusing to restore a case dismissed for default. In Sarat Chandra Gkose v. The Secretary of State for India ILR

(1919) C. 861 the order was made u/s 49 of the Act. All these cases are distinguishable.

2. Once a proper reference comes before the District Judge, his final order on it is an award whether he gives an additional amount or he gives no

additional amount or whether the Acquisition officer's award is not upheld for some other reason like the one in this case. Section 27(3) of the

Land Acquisition Act supports this conclusion. The words are ""where the award of the Collector is not upheld."" This is such a case the reason

being that Government backed out of the acquisition. We overrule the preliminary objection.

3. As to the amount, it is stated before us-and we have no reason to disbelieve the statement-that Rs. 188 represents the total costs incurred

including vakalat, stamp, pleader's fee and witness batta. Seeing that out of the ten adjournments which the case received, three were at the

instance of the appellant and seven at the instance of the Government, we think Rs. 120 for batta and other expenses and Rs. 20 for pleader's fee,

that is Rs. 140, is all the sum to which the appellant is properly entitled. We accordingly modify the order of the Court below by directing that the

respondent will pay Rs. 140 towards the appellant's costs.

4. The respondent will pay the appellant's costs for the appeal.