
(1926) 05 MAD CK 0010
In the Madras High Court

Maddur Krishnammal

APPELLANT

Vs

Collector of Coimbatore

RESPONDENT

Date of Decision : 03-05-1926

Acts Referred:

Citation : AIR 1927 Mad 282

Hon'ble Judges : Ramesam, J

Bench : Division Bench

Judgement

Ramesam, J.—These two petitions arise out of the same matter. It would be convenient to set out the facts. The Taluk Board of Kollegal applied for the acquisition of some sites for public purposes. Land acquisition proceedings were taken under the Act and an award passed on the 16th February 1923. Notices of the [missing text]ward were duly served on the parties, but they did not appear on that date. We are now concerned only with one of those parties. The parties, including the present petitioners, put in petitions objecting to the amounts of compensation. This is the statement made by the Revenue Divisional Officer in his letter dated the 26th February 1923. The letter gives further information about the proper values of the three sites and the second site is the site of the petitioner. I, therefore, infer that the petitioner also sent petitions. like the others when the letter of the 26th February 1923 was received by the District Judge. He returned it to the Revenue Divisional Officer with the following endorsement:

It does not appear from the letter of reference whether u/s 18 of the Act the claimants asked by written application for a reference to this Court.

2. The original letter and the endorsement were again returned to the District Judge by the Revenue Divisional Officer with this endorsement: "Resubmitted with separate reference for each case....." The parties have not applied for a reference to the District Court though they take objections to the amount of compensation awarded to them and as such the cases come u/s 31 (2) of the Land Acquisition Act.

3. When this was received by the District Judge notice was ordered to the claimant. On the 23rd August the claimant appeared by a vakil. The vakil finding that the only reference was u/s 31 (2) took time and filed another petition dated the 28th August with an affidavit. It was stated in this affidavit that the petitioner filed a petition on the 24th February to the Revenue Divisional Officer and she filed an office copy of the petition with a certificate of posting. She contended that she requested a reference to the District Judge in that petition and she further prayed that her present petition may be taken as one u/s 18 of the Act even if the petition of 24th February did not amount to an application for reference. On the 29th September records were called for. They were received, but as no copy of the petition of the 24th February was found, the Judge asked the Revenue Divisional Officer to make a further search for the particular petition. The Revenue Divisional Officer reported that all the papers with him have been sent on the 29th January 1924. Apart from the certificate of posting, and her private copy of the petition, in view of the statement by the Revenue Divisional Officer in the letter dated 26th February, there is no doubt that by the 26th February there was a petition to the Revenue Divisional Officer sent by the present petitioner, and it is not now traceable. That being so, I think I may accept the private copy she produces as the correct copy. The ground on which the District Judge passed his order is that this petition does not amount to a requisition for reference u/s 18. His translation of the material sentence is: "I will not receive the amount, but will contest the matter in the District Court." The petition itself has been translated here which says: We shall engage a vakil and conduct the suit in the District Court." I do not think there is much difference between the translation here and in the District Court, and I think that both implied that she meant to fight out the question of value in the District Court. She can carry on such a fight only if the matter is referred to the District Judge. Her statement, therefore, implies a request to the Revenue Divisional Officer to send the papers to the District; Court. No doubt, it would have been better if she did not leave it to be implied but made it express. But it is now clear that the Revenue Divisional Officer did understand it to be a requisition for reference u/s 18, for he concludes his letter of the 26th February thus:

In these circumstances I submit u/s 18 of the Act 1 of 1894 that the matter may be kindly adjudicated by you. A copy of the award is enclosed herewith.

4. It may be that the section itself was not mentioned in the petition, but from the spirit of it, it ought to be construed as a petition u/s 18. The Revenue Divisional Officer did so construe it. On the return of the letter by the District Judge, he seems to have gone back on his first opinion and thought that the only reference he is entitled to make was u/s 31 (2), but it seems to be that these are cases where the first thoughts are the best. I think the Revenue Divisional Officer's first understanding of the petition was right. I think there is an obvious requisition for reference to the District Judge. I allow the petition, C. R. P. No. 665 of 1924, and that will go back for enquiry according to law.

5. Civil Revision Petition No. 666 of 1924 requires no order.

6. I think the respondent should pay the costs of the petitioner in C. R. P. No. 665 of 1924. The costs of the lower Court will abide the result. In estimating the costs of this Court the petitioner will have also the costs of the documents in C. R. P. No. 666 of 1924, as if they are part in C. R. P. No. 665.