
(1912) 05 BOM CK 0007

In the Bombay High Court

Case No : Privy Council Appeal No. 103 of 1910

Merwanji Mancherji Cama

APPELLANT

Vs

The Government of Bombay

RESPONDENT

Date of Decision : 03-05-1912

Acts Referred:

Citation : (1914) 16 BOMLR 55

Hon'ble Judges : Shaw, J;Macnaghten, J;John Edge, J;Atkinson, J;Amir Alli, J

Bench : Full Bench

Judgement

Shaw, J.—Hypothetical building schemes are the usual basis of valuation in the case of building land. I can say this from my own experience of such cases. The ordinary course will be to call a surveyor who will say that in his opinion the land is worth so much. When asked for his reasons he will proceed to unfold his scheme, saying that he values it at so much because an owner, by expending so much on buildings of such and such a description, can realise such and such a rent, which when capitalized will be worth the sum named by him. In cross-examination, the surveyor's scheme will or course have to be tested in all its details. But the scheme is certainly admissible in evidence and a proper mode of valuation.]

Macnaghten, J.

2. I am of the same opinion. Hypothetical building schemes seem to me to be the most obvious basis of valuation in cases like these. Of course the weight to be attached to such a scheme is a question for the tribunal hearing the case.

3. The other Law Lords also concurred in the above expression of opinion.

Erle Richards, J.

4. In view of such an expression of opinion by your Lordships, I will not contest the point. I do, however, submit that your Lordships will lay down that schemes of an extravagant nature (and I submit the present scheme is such) ought to

receive no attention at all from the Court.

Macnaghten, J.

5. Their Lordships' view certainly is that the evidence was admissible and ought to have been considered by the Court. This Board is strongly of opinion that Government ought not to contest the case any further but ought to accept the judgment of Batty J. at all events in principle. If Government can come to a settlement in the present case as to the figure of compensation, so as to avoid its being remitted to the High Court for further hearing on appeal, their Lordships may perhaps accede to Sir Erie Richards' request.

6. The parties having arrived at a settlement as to the figure of compensation, the case was again taken up on the 29th July 1912.

Erie Richards, J.

7. I again submit that your Lordships will indicate what the limits of such a scheme should be and point out that extravagant schemes must be altogether disregarded.

Macnaghten, J.

8. I have no doubt that the Judges are perfectly competent to decide what weight ought to be attached to any scheme that may be put forward by the parties. All that their Lordships decide is that such schemes are admissible in evidence and must be considered on their merits in every case.

9. Their Lordships accordingly humbly advised his Majesty to discharge the decree passed by the High Court of Bombay in appeal, and to pass a decree declaring that the amount of the compensation payable to the appellants by the respondent inclusive of the statutory allowance of 15 per cent, for compulsory acquisition was Rs. 5,05,826-13-7, and ordering that the respondent should pay to the appellants the excess over the amount awarded by the High Court, together with interest at 6 per cent, per annum on the amount of such excess from the date when the Collector took possession to the date of payment thereof. Their Lordships also restored the order as to costs contained in the decree of Batty, J. and gave the appellants the costs of the appeal to the High Court and the appeal to the Privy Council.