
(1925) 11 MAD CK 0041
In the Madras High Court

M.S. Subramania Aiyar and Others

APPELLANT

Vs

The Collector

RESPONDENT

Date of Decision : 03-11-1925

Acts Referred:

Citation : 97 Ind. Cas. 933 : (1926) 51 MLJ 309

Judgement

1. Two points have been raised in this appeal: (I) that interest at 6 per cent should have been awarded u/s 28 of the Land Acquisition Act, and (2)

that compensation for Survey No. 791 should have been fixed at Rs. 16-8-0 per cent instead of Rs. 15

2. As regards the first point we have been referred to the case in Rangaswami Chelty v. The Collector of Coimbatore (1909) 7 M.L.T. 78 in

which it was stated that the claimants were entitled to interest at 6 per cent per annum and also to a judgment of the Privy Council in Narsingh Das

v. Secretary of State for India (1924) L.R. 52 IndAp 133 where at the very end of the judgment, their Lordships state:

A small matter of the judgment was the omission of the right to interest to which the appellant is entitled at the rate of 6 per cent....

3. In neither of these cases is the question whether the Court is bound to award interest u/s 28 discussed and that point is not altogether free from

doubt. However, in the present case it appears that the claimants did not put forward any extravagant claims but claims which were allowed to a

considerable extent. This being so, we think, to use the words in Rangaswami Chetty v. The Collector of Coimbatore (1909) 7 M.L.T. 78 that

they were entitled to interest at 6 per cent., but in coming to this conclusion we must not be held to express any opinion as to whether Section 28 is

mandatory or not. The claim to interest will be allowed on the merits of the case from the date of taking possession of the land, namely, 9th March, 1922, to the date of payment.

4. As regards the second point, it appears that the question has not been dealt with by the District Judge and possibly this may be due to the fact

that the original claim in respect of Survey No. 791 was put in by Abhirami Ammal who was not one of the claimants in the District Court. The

award in respect of this land and a number of other lands has been made jointly in the names of Abhirami Ammal, her sister and three reversioners

and the objection, was raised in the District Court by the reversioners. As they are interested in the compensation, the question could be raised by

them and we must enhance the rate awarded as it is admitted that Survey No. 791 stands in the same category as the other lands for which Rs.

16-8-0 per cent was awarded.

5. The appeal is, therefore, allowed with costs and the Lower Court's order modified accordingly.

6. u/s 82 we fix the time for performance as one month from this date.