

(1933) 08 AHC CK 0016
In the Allahabad High Court

Muhammad Sajjad Ali Khan and Others	APPELLANT
Vs	
Secy. of State	RESPONDENT

Date of Decision : 02-08-1933

Acts Referred:

Land Acquisition Act, 1894 — Section 23(2)
Land Acquisition Act, 1894 — Section 23(2)
Land Acquisition Act, 1894 — Section 23(2)

Citation : AIR 1933 All 742 : 145 Ind. Cas. 526

Hon'ble Judges : Niamatullah, J

Bench : Division Bench

Judgement

Niamatullah, J.—This is an appeal from the decree of the learned Additional District Judge of Meerut at Muzaffarnagar passed on a reference made by the Collector under the Land Acquisition Act. The Collector had awarded Rs. 283-13-4 as compensation. The learned Additional District Judge found the market value of the land acquired to be Rs. 1,330-4-3. Accordingly he allowed that amount as compensation.

2. He however disallowed 15 per cent on that amount u/s 23(2), Land Acquisition Act. The present appeal is limited to a claim of Rs. 199-8-7, being 15 per cent on the market value for compulsory acquisition. It was not through an oversight on the part of the learned Additional District Judge that 15 per cent for compulsory acquisition was not allowed to the appellant. The learned Judge has disallowed it, as, to quote his own words, "they (the applicants) have not claimed it." The learned Judge was apparently of opinion that 15 per cent on the market value can be allowed only if a claim is made therefor. The provisions of Section 23(2), Land Acquisition Act, are imperative, and the District Judge has no discretion in the matter, nor is the right of the claimant to receive 15 per cent in addition to the market value dependent on his having previously claimed it.

3. The learned Government Advocate has attempted to support the view of the learned Additional District Judge by a reference to a number of sections of the

land Acquisition Act. He points out that in pursuance of the notice issued u/s 9, Land Acquisition Act, the owner must give particulars of his claim. He relies on Section 25(2) and (3) in support of his contention that, where the owner omits, without sufficient reason, to give particulars of his claim on receipt of a notice u/s 9, he is not entitled to receive compensation exceeding the amount awarded by the Collector. If the appellants had omitted to give particulars of their claim on receipt of notice u/s 9, Land Acquisition Act, and the learned Judge considered that there was no sufficient reason for such omission, he should not have allowed compensation exceeding the amount awarded by the Collector. But the learned Judge has awarded Rs. 1,330 odd as against Rs. 283 odd awarded by the Collector. It is clear that this was not a case in which the appellants omitted to give particulars of their claim without sufficient reason on receipt of a notice u/s 9. It must be a case in which either they actually gave particulars of their claim on receipt of such notice, or if they omitted to make such claim, there was some reason to the satisfaction of the learned Judge for their omission to give such particulars. It is impossible to accept the hypotheses that the learned Additional Judge disallowed 15 per cent on the market value for compulsory acquisition for the reason suggested by the learned Government Advocate, namely, that the appellants had omitted to give particulars of their claim without a sufficient reason. Moreover Section 25(2) and (3) refer to market value and not to compensation for compulsory acquisition which is to be awarded in every case.

4. It seems to us that the learned Judge was under a misapprehension as regards the law on the subject. He thought that if a claimant does not specifically claim 15 per cent for compulsory acquisition, the same is not to be added to the market value. In this view, he was undoubtedly wrong. As we have already indicated, it is a statutory amount of compensation in addition to the market value; and the District Judge, has no power to deprive a claimant of that amount which is intended to compensate him for compulsory acquisition. For the reasons stated above, this appeal must succeed. It is accordingly allowed with costs.