
(1947) 09 MAD CK 0011
In the Madras High Court

P. Abdul Salam Saheb

APPELLANT

Vs

Provincial Government of Madras

RESPONDENT

Date of Decision : 05-09-1947

Acts Referred:

Defence of India Act, 1971 — Section 19(1)

Citation : (1947) 60 LW 788 : (1947) 2 MLJ 480

Hon'ble Judges : Frederick William Gentle, C.J; Tyagarajan, J

Bench : Full Bench

Judgement

Frederick William Gentle, C.J.—The appellant is the proprietor of three mango fields in one of which is a brick kiln. This property was

requisitioned by the Government during the recent War pursuant to the provisions of the Defence of India Act and the Rules made there under.

The appellant, as he was entitled, claimed compensation for the loss occasioned to him by reason of the requisitioning, u/s 19(1) of the Defence of

India Act. His claim was for a total sum of Rs. 8,317. The claim came for disposal before the learned District Judge of North Arcot by virtue of his

appointment as an arbitrator to decide claims u/s 19 of the Act. In his award, the arbitrator adjudged the appellant to be entitled to a total sum of

Rs. 180, being Rs. 100 each in respect of the fasli years 1352 and 1353. He rejected one claim as fraudulent, another on the ground that already it

had been paid, and he awarded a total of Rs. 180 in respect of a claim for Rs. 3,741. This is the appeal, by the owner of the fields, which were

requisitioned, against the decision of the arbitrator.

2. At the outset, the learned Government Pleader took the preliminary objection that no appeal lies from the award of the arbitrator. This objection

is under the provisions of the Act and the rules made thereunder. The relevant provisions are the following:

Section 19(1)(f): An appeal shall lie to the High Court against an award of an arbitrator except in cases where the amount thereof does not exceed

an amount prescribed in this behalf by rule made by the Central Government.

Rule 14 of the Defence of India (Payment of Compensation and Arbitration) Rules, 1943, is as follows:

No appeal shall lie to the High Court against the award of an arbitrator

(i) in the case of an award of recurring compensation, where the total amount of such compensation for a period of five years does not exceed Rs.

5,000;

(ii) in other cases, where the amount of the award does not exceed Rs. 5,000.

3. So far as the amount awarded in the present instance is concerned, it is immaterial, whether it is recurring compensation or a lump sum grant.

The learned Government Pleader contended that, since the award adjudged in favour of the appellant a sum not exceeding Rs. 5,000, no appeal

lies from the adjudication by the arbitrator. This argument is based upon the wording of Clause (f) of Sub-section (1) of Section 19 of the Act, it

being argued that the words "against an award of an arbitrator except in cases where the amount thereof does not exceed an amount prescribed

means that the amount awarded does not exceed the amount prescribed, and as the amount awarded in the present instance is less than Rs. 5,000,

no appeal lies. Mr. Srinivasagopalachari on behalf of the appellant contended that the words in Clause (f) "the amount thereof," do not mean the

amount adjudged or given by the award but the amount in dispute in the arbitration or the amount upon which the arbitrator adjudicated or the

amount claimed by the appellant in the arbitration.

4. In order to ascertain the meaning of a piece of legislation, the best course is to see what the piece of legislation in fact says. There is nothing in

Clause (f), which suggests the meanings put forward by the learned counsel for the appellant. If it had been intended that an appeal would lie in

every case in which a claim exceeded Rs. 5,000 or the amount in dispute or the amount upon which there was adjudication exceeded that amount,

the clause easily could so have stated. Instead of, that, the clause provides that an appeal shall not lie against an award where the amount thereof

does not exceed a prescribed sum. The word "" thereof,"" in my view, clearly relates to the word "" award "" and cannot relate to any other word nor

bear any other meaning. The meaning of Clause (f), to my mind, is manifest and unambiguous. It means that an appeal shall not lie to this Court

whenever in an award the amount adjudged by it does not exceed the sum of Rs. 5,000. That was the opinion expressed in Varadarajutu Chettiar

v. The Collector of Chingleput C.M.A. No. 562 of 1944 decided by Wadsworth and Govindarajachari, jj., which decision has not been-reported.

With respect, I agree with that decision. It is not for this Court to express any opinion or comment upon legislation, and all that is open and proper

to be done in this case is to allow the preliminary objection and dismiss the appeal with costs.

Tyagarajan, J.

5. I agree that the preliminary objection must be upheld and the appeal dismissed with costs.