

(1912) 01 MAD CK 0029
In the Madras High Court

Pitchuvier and Others

APPELLANT

Vs

Perumal Konan and Others

RESPONDENT

Date of Decision : 16-01-1912

Acts Referred:

Land Acquisition Act, 1894 — Section 30

Citation : 13 Ind. Cas. 651

Hon'ble Judges : Sundara Aiyar, J;Ralph Benson, J

Bench : Division Bench

Judgement

1. A reference was made u/s 30 of the Land Acquisition Act by the Collector for the determination of the apportionment of the compensation,

awarded by him, between the Mahajans and the ryots of the village in which the acquired land was situate. While the investigation before the Judge

was going on, the parties arrived at an understanding that the money should be paid to the Mahajans after the expiration of four months, if within

that time¹ four of the ryots did not file a regular suit to establish their right to any portion of the money. The four ryots did file a suit for the purpose

in the Munsit's Court within the four months, but the defendants the Mahajans attempted to defeat that suit by raising a technical objection that all

the ryots should have instituted the suit. The suit was consequently withdrawn, with leave to sue again, and the present suit was launched, making

all the ryots parties.

2. It is now contended that, as the present suit was commenced after the expiration of four months, it cannot be maintained. We agree with the

lower Appellate Court that the condition mentioned in the District Court's order was complied with when the four ryots, referred to therein, filed

the first suit. That was the suit contemplated by the parties and the present suit was necessitated by the technical objection of non-joinder raised by the defendants.

3. The only other point raised is, that the District Court alone has jurisdiction to decide the question of apportionment of compensation-money

except in the case referred to in Section 31(2) of the Land Acquisition Act and the Munsif's Court had, therefore, no jurisdiction to entertain the

suit. The District Court's order was passed by consent and no proceedings were taken by either party to impeach it as was done in *Harish*

Chandra Chatterji v. Bhoba Tarini Debi 8 C.W.N. 321. We are of opinion that the defendants cannot attack it collaterally in defence to this suit.

The District Judge's order cannot be regarded as so utterly void as to permit them to do so. The Munsif's Court is not wanting in inherent

jurisdiction to try a suit for the determination of the right to money awarded as compensation under the Land Acquisition Act. Both parties having

consented to the Judge's order, which was in fact suggested by the defendants, they must be regarded as estopped from questioning the District

Munsif's jurisdiction: See *Nararimha Row v. Rama Row* 5 M.L.J. 79.

4. The case relied on by the appellants, *Bhandi Singh v. Ramadhin Rai* 2 C.L.J. 359 is not in point as the order of the District Judge there was not

one passed by consent.

5. The Court merely held that the proper course to be pursued by an aggrieved party in such a case was to have it set aside by a superior Court

and not to institute a fresh suit. The order appealed against is right. We dismiss this appeal with costs.