
(1929) 12 PRI CK 0004

In the Privy Council

Case No : Privy Council Appeal No. 98 of 1928

(Rai) Pramatha Nath Mullick Bahadur

APPELLANT

Vs

Secretary of State

RESPONDENT

Date of Decision : 06-12-1929

Acts Referred:

Citation : (1930) AIR(PC) 64

Hon'ble Judges : Binod Mitter, George Lowndes, Tomlin, Lords Darling, Viscount Dunedin, JJ.

Advocate : India Office, Clarke Rawlins and Co., R. Brown, A.M. Dunne, B. Dube, G. Hurst, for the Appearing Parties.

Judgement

Sir George Lowndes, J.

This appeal arises out of proceedings under the Land Acquisition Act, 1 of 1894. Certain lands of the appellant were required by Government for a public purpose. The usual formalities were gone through and awards were made by the Collector in 11 cases in which the appellant was concerned. At his request references were made to the Land Acquisition Judge, 24-Perganas, who slightly increased the Collector's awards. The appellant carried the matter to the High Court where a further and more substantial increase was allowed, and he has now appealed to His Majesty in Council. The appellant's grounds of appeal to the High Court and his objections to the High Court's decree were voluminous, but only one question has been submitted on his behalf to the judgment of this Board.

It is contended that the measurements of four of the most valuable plots taken up, the compensation for which was fixed at Rs. 1,000 per cottah, are incorrect, and that the appellant has been denied by the Courts in India the opportunity of proving their correct area. Their Lordships are accordingly invited to send the case back for the remeasurement of these plots.

By S. 8 of the Act, after the intended acquisition has been notified, the Collector is to cause the land to be marked out and measured and a plan to be prepared.

It is not disputed that this was regularly done and that the statutory notices were served on the appellant calling upon him to appear before the Collector and to state (inter alia) his objections (if any) to the measurements so made. The appellant did not admit the Collector's area, but he tendered no independent measurements of his own and seems to have made no attempt to show that the Collector's measurements were incorrect. Awards were made in all the 11 cases on 10th and 11th March 1921, and on 14th April following the appellant claimed references to the Land Acquisition Court on the ground in each case that the award was insufficient, and that it should be deferred to the Judge "for the determination of the proper compensation." The awards were based on the Collector's measurements but no question as to their correctness was raised. The references were duly made by the Collector on various dates between the 18th July and 11th August 1921. He stated in each case that objection was taken "to the valuation of the land only." The cases dragged on for nearly three years, and it was not till April 1924, that the appellant raised any objection to the measurements. He then asked that Government should admit a larger area or in the alternative that there should be a fresh measurement. This was refused by the Judge on the ground that the only objection before him was as to the amount of compensation. The appellant applied to the High Court for revision of this order but without success. The valuation proceedings then went on at considerable length before the Land Acquisition Judge, and on appeal from him in the High Court, with the result stated above. In the High Court the question of measurement was again raised, but the learned Judges, by whom the appeal was heard, upheld the previous decision. Their Lordships have now to consider whether it was right.

The material section of the Act under which the references were made to the Court is 8. 18, which is in the following terms :

"18.-(1) Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court, whether his objection be to the measurement of land, the amount of the compensation, the persons to whom it is payable, or the apportionment of the compensation among the persons interested."

The section clearly specifies four different grounds of objection, viz.: (1) to the measurement of the land; (2) to the amount of compensation; (3) to the persons to whom it is payable, and (4) to the apportionment. The distinctions between objection to area and to amount of compensation are also borne out by other sections of the Act; see Ss. 9, 11, 19 (d), and 20 (c). The appellant's objection was manifestly only to the amount of compensation and was correctly so described by the Collector in making the references.

By S. 20 the function of the Court upon a reference being made is "to determine the objection? and only persons "interested in the objection? are to be summoned before it, and by 8. 21 the scope of the inquiry is to be :

"restricted to a consideration of the interests of the persons affected by the objection."

Their Lordships have no doubt that the jurisdiction of the Courts under this Act is a special one and is strictly limited by the terms of these sections. It only arises when a specific objection has been taken to the Collector's award, and it is confined to a consideration of that objection. Once therefore it is ascertained that the only objection taken is to the amount of compensation, that alone is the "matter" referred, and the Court has no power to determine or consider anything beyond it.

For these reasons their Lordships are of opinion that the ruling of the Courts in India was right, and that this appeal fails, and they will humbly advise His Majesty that it should be dismissed. The appellant must bear the costs of the appeal.