
(1927) 06 CAL CK 0034
In the Calcutta High Court

Secretary, Cantonement Committee

APPELLANT

Vs

Satish Chandra Sen

RESPONDENT

Date of Decision : 20-06-1927

Acts Referred:

Land Acquisition Act, 1894 — Section 18

Citation : AIR 1927 Cal 786

Hon'ble Judges : Roy, J;B.B. Ghose, J

Bench : Full Bench

Judgement

B.B. Ghose, J.—This appeal seems to me to raise a very simple point. A certain quantity of land was acquired under the Land Acquisition Act with a house standing on it. The land and the house were separately valued. The compensation allowed for the land was Rs. 9,510-10. It is needless to refer to the previous proceedings before the land was valued. The Land Acquisition Collector was of opinion that the claimant Satish Chandra Sen was not entitled to any compensation for the land which belonged exclusively to Government. There was a reference u/s 18, Land Acquisition Act, at the instance of that claimant to the Court. The learned district judge was of opinion that the claimant Satish Sen was the owner of the land and was entitled to the compensation awarded for it. From that judgment of the learned judge the Secretary of State has preferred this appeal.

2. The argument on behalf of the Secretary of State advanced by the Government pleader is that the whole of the cantonment area was acquired for the Government some time or other from the end of the 18th century. It should, therefore, be presumed that this particular land had also been acquired and that the Secretary of State should be considered to be the owner of the land unless the respondent can show that he has some other title. The respondent has shown that he has been in possession by purchase of the entire land from the year 1900. The declaration was made in 1918. The respondent was in possession without payment of any rent and it may also be presumed that his predecessor-

in-interest was in possession without payment of any rent to any one. The learned judge has held that the respondent Satish San has been able to establish his lakheraj right to the land. The question is whether his decision is right.

3. The learned Government pleader relies upon the fact that this land is within the cantonment area. But it appears from the documents which have been placed before us that all the land within the cantonment area does not necessarily belong to Government. For military purposes, the authorities may declare that certain lands are within a cantonment area, so that the owners of lands within that area should be bound to conform to the rules of the cantonment in the exercise of their right of ownership of the lands or houses situate within that area. For example, the owners would be bound to take such steps for the purpose of sanitary arrangements or to use their property in such a way as might be conducive to the health or morals of the soldiers who would be quartered in the cantonment.

4. The further argument on behalf of the appellant is that the papers show that it was the intention of the Government to acquire lands on which the cantonment was established. It appears that considerable quantities of land had actually been acquired. But, as the learned judge says, there is nothing to prove that this particular land was acquired or that this disputed land is within the boundary of the area which had been acquired. The disputed land is said to be situated on the bank of the river Hooghly. No document has been shown that lands had been acquired down to the river bank. The only thing that has been put in evidence is the revenue survey map which shows the cantonment area down to the river bank. That, as I have already said, does not show that the ownership of all the lands was in the Secretary of State. On the other hand, it appears that under the rules of the cantonment an owner was bound to obtain the leave of the authorities for erecting structures, on any land belonging to the cantonment. If the land in question was ever considered to be the property of the Government, one would have expected that there was some paper in the offices of the Government which would show that the claimant Satish Sen or his predecessor-in-interest had obtained any permission from the authorities in question for erecting structures on the land. But no such paper has been forthcoming. That itself, to my mind, shows that apart from the fact that the land is within the cantonment area, the Government had no concern with the ownership of the land in question. The presumption is that Satish Chandra Sen is the rightful owner of the land from the fact of his long undisturbed possession without payment of any rent. In that view I do not think it necessary to discuss any of the questions which have been elaborately dealt with by the Court below. I do not, of course, mean to say that these questions are not deserving of consideration. In my view, the appellant has not been able to satisfy us that the judgment of the learned judge below is erroneous. The appeal, accordingly, fails and is dismissed with costs.

Roy, J.

5. I agree.