
(1925) 03 MAD CK 0002
In the Madras High Court

Shanmugha Valayuda Mudaliar and Others

APPELLANT

Vs

The Collector of Tanjore

RESPONDENT

Date of Decision : 19-03-1925

Acts Referred:

Citation : 93 Ind. Cas. 639 : (1926) 23 LW 336

Hon'ble Judges : Ramesam, J; Charles Gordon Spencer, J

Bench : Division Bench

Judgement

1. The land acquired in this cases was acquired for the purpose of being allotted for building houses, but the use to which the land was being put at

the time of acquisition was that of a cocoa-nut tope. The District Judge has given compensation under two heads, first for the income derivable

from the cocoanut trees, which he capitalised at five years' purchase, and secondly he has given compensation for the land at Rs. 1,200 an acre. It

is obvious that the same land cannot simultaneously be used as a cocoanut tope and for buildings. P. W. No. 7, who is the gumastah of the

claimant and who speaks to the leasing of the trees, says that no yield was got from the land. In the Secretary of State for India v. Duma Lal Shaw

4 Ind. Cas. 581 : 13 C.W.N. 487, it was observed that land acquired under this Act should not be valued as a building site and at the same time

valued upon the footing of the trees remaining there. The two claims, as pointed out by the learned Judges, are inconsistent. The learned District

Judge took the income per trees at not less than Rs. 2 and he observed that five years income was not very high in fixing the value per tree. By Ex.

E, P. W. No. 5 let out 150 trees for Rs. 425 a year and the lessee has also to give fruits and leaves worth Rs. 60. That is equivalent to saying that

150 trees would yield a little more than Rs. 3 a year each. It corroborates the statement of P. W. No. 1 that cocoanut trees in this village would

fetch Rs. 3 per annum rent. According to P. W. No. 6, 145 trees in the tope out of 160 were yielding fruits; but P. W. No. 1 says that 15 or 20 of

them would have a small yield. In every tope there must be trees at various stages of growth, some beginning to yield, some yielding well, some

yielding less and less every year and some past-bearing. One can only take an average. On the side of Government no witness, who had counted

the yielding trees, was examined. On the whole it will be reasonable to estimate that there were at the date of notification 125 trees yielding at the

rate of about Rs. 3 per annum. At this rate the annual yield would be about Rs. 375. The appellants have claimed at this rate Rs. 3 per tree for ten

years upon 163 trees. We think we should allow them at the rate of Rs. 3 for ten years, but reduce the number of trees as already stated from 163

to 125. In *Rajammal v. Head Quarter Deputy Collector, Villore* 25 Ind. Cas. 393. a Bench of this Court estimated the value of a tope of trees at

20 years annual rental; but those were mango trees which as stated by the learned Judges, are long lived and yield produce for a number of years.

To this sum of Rs. 3750 we must add Rs. 37 for the timber of trees that are not yielding at all at Rs. 1 per tree and Rs. 8 for 11 portia trees. The

total comes to Rs. 3,795 and to this must be added 15 per cent, for the compulsory nature of the transaction.

2. Nothing will be allowed for the land, the acquisition being that of cocoanut tope valued as a tope not as a field for growing wet or dry crops nor

as a house site.

3. The appellants are entitled to interest from the date of taking possession and costs throughout calculated on the amount by which we have

increased the District Judge's award.

V. N. V.

Order accordingly.