

(1925) 03 MAD CK 0023
In the Madras High Court

Shunmuga Velayuda Mudaliar and Others	APPELLANT
Vs	
Collector of Tanjore	RESPONDENT

Date of Decision : 19-03-1925

Acts Referred:

Citation : AIR 1926 Mad 945

Hon'ble Judges : Spencer, J

Bench : Division Bench

Judgement

Spencer, J.—The land acquired in this case 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 cocoanut tope. The District Judge has given compensation under two heads, first for the

income derivable from the cocoanut trees, which he capitalized at five year" 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. 7, who is the gumasta of

the claimant and who speaks to the leasing-of the trees, says that no yield was got from the land. In Secretary of State v. Duma Dal Shaw 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 tree at not less than Rs. 2, and he observed that 5 years" income was not very high in fixing the value per tree. By Ex. E.P.W. 5 let out

150 trees for Rs. 425, a year and the lessee has also to give fruits and leaves worth Rs. 50. 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. 1 that cocoanut trees in this village would fetch Rs. 3 per annum rent.

According to P. W. 6, 145 trees in the tope out of 160, were yielding fruits, but P. W., 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 par 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*

Quarters Deputy Collector, Vellore [1914] 25 I.C. 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. 3,750

we must add Rs. 37 for the timber of trees that are not yielding at all at Re 1 par 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 a cocoanut tope valued as a tope, not as a field for growing wet or dry crops 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.