

(1948) 09 MAD CK 0016
In the Madras High Court

Sri Lakshmi Narasimha Devaru by Adalthedar or Trustee, M. Narayana Acharya and Another APPELLANT

Vs

The Revenue Divisional Officer (Land Acquisition Officer) and Another RESPONDENT

Date of Decision : 16-09-1948

Acts Referred:

Land Acquisition Act, 1894 — Section 4(1)

Citation : (1949) 62 LW 140 : (1949) 1 MLJ 283

Hon'ble Judges : P.V. Rajamannar, C.J

Bench : Division Bench

Judgement

P.V. Rajamannar, C.J.—These two appeals arise out of two, among other references, made to the Court of the Subordinate Judge of South

Kanara on the acquisition of about 25 acres and 10 cents of wet, dry and garden lands in the village of Jeppinamogru adjoining Mangalore town.

The acquisition was for the agricultural Department to open a paddy breeding station. The material notifications u/s 4(1) of the Land Acquisition

Act are dated 29th June, 1943 and 21st September, 1943. The Land Acquisition Officer adopted the method of capitalising the annual rent of the

lands for the award of compensation. The same method was followed by the learned Subordinate Judge and it is common ground before us that it

was the correct method. The learned Subordinate Judge substantially accepted the award of the acquiring officer in so far as the average rent of

the wet lands was concerned, but increased the price of rice from Rs. 7-4-0 to Rs. 9-5-6 per mura. In respect of the garden lands, the learned

Judge confirmed the award of the Land Acquisition Officer. In respect of dry lands with which we are concerned only in A.S. No. 679 while the

Land Acquisition Officer adopted a rental of Rs. 25 per acre as the annual rent for building purposes, the Court increased it to Rs. 60. The

claimants have preferred the two appeals, and their learned Counsel has urged for a higher valuation for the wet lands and the dry lands. He did

not seriously contest the valuation of the garden lands.

2. Before dealing with the valuation, a preliminary point which arises in A.S. No. 608 and which found acceptance with the Court below may be

dealt with. The claimant filed a statement before the Land Acquisition Officer in response to a notice u/s 9 of the Act in which he put forward his

claim in the following manner:

That the valuation adopted is grossly inadequate and low considering the nature of the land, its situation, yield and the disadvantages caused by the

acquisition of the same to the adjoining lands of the claimant. This claimant is entitled to not less than Rs. 3,000 per acre of nanja lands and Rs.

2,000 for garden lands exclusive of the value of trees which are proposed to be acquired in this case.

The objection on behalf of the Land Acquisition Officer was that as the claimant had not mentioned a specific amount as the compensation claimed

by him for his lands, he must be deemed to have not made a claim and it was not open to him to pray for any enhancement of the award made by

the Land Acquisition Officer. Reliance was placed on the ruling of a Bench of this Court in Chigurupati Subbanna Vs. The District Labour Officer,

and following that ruling the learned Subordinate Judge upheld the contention. In our opinion, the principle of that ruling does not apply to the facts

of this case. In that case beyond filing certain sale deeds of neighbouring lands, the claimant did not mention the rate at which he prayed that his

lands must be valued. It was contended that the mere filing of the sale deeds amounted to making a claim for the amount which the sale deeds

showed, but the learned Judges refused to accept that contention. The learned Chief Justice at page 538 said:

What the Act does require is that there should be a specific claim, namely, a claim which states in rupees the value the claimant places upon his

property.

In the present case in paragraph 10 of his petition which we have extracted above, the claimant does mention his figures for nanja lands and for

garden lands respectively. The land Acquisition Officer himself understood the claim to be the said rates. We do not therefore agree with the

learned Subordinate Judge that the provisions of section g (2) of the Act have not been complied with and that therefore the claimant is not entitled

to pray for enhancement of the award.

3. [Then their Lordships discussed the price of rice and also the rental of dry land in the neighbourhood at about the time of the notification u/s 4(1)

of the Act.]

4. The learned Subordinate Judge capitalised the net annual income at 20 years" purchase. The learned Counsel for the appellants contended that

the number of years" purchase should be 33 1/3 relying upon the recent ruling in T. Radhakrishna Chettiar Vs. The Province of Madras, , In that

case the subject-matter was a site measuring 7156 square feet with a building thereon situate in Kumbakonam. It was held that the number of

years purchase to be adopted for capitalisation had to be arrived at by taking into account the interest yielding by Government securities at the time

of the notification u/s 4(1) of the Land Acquisition Act. One of the earlier decisions discussed therein was that of Krishnaswami Aiyangar and

Horwill, JJ. in Revenue Divisional Officer, Trichinopoly v. Varadachari (1944) 1 M.L.J. 142 which related to the acquisition of ryotwari land.

Horwill, J., who delivered the judgment of the Bench made the following observations with reference to the principle applicable to the valuation of

agricultural lands.

...Whatever may be said with regard to a melwaram interest in a zamindari land or a vacant site it is difficult to accept the current rate of interest on

gilt-edged securities as a safe guide to the multiple to be applied to the annual profits on ryotwari land. The landlord in such cases not only expects

to get a return on the capital invested on the land but also something in addition to that as compensation for his trouble in attending to the land and

for the risks involved in the cultivation of land. Although the tenants may agree to pay him a fixed rent in money, yet if a full crop is not raised on the

land either through failure of rain or because of pests or for any other reason, it is extremely difficult for the landlord to realise the rent. For these

reasons, the landlord naturally expects an appreciably larger return than he would expect from gilt-edged securities, which he leaves in the bank

and for the realisation of interest on which he is put to no trouble whatsoever.

With respect we agree entirely with these observations. In the case of T. Radhakrishna Chettiar Vs. The Province of Madras, it was not necessary

to deal with the valuation of agricultural land. No decided case was brought to our notice in which for the valuation of such land a multiple of over

20 has been ever adopted for capitalisation.

5. The learned advocate for the claimant contended that at least for the dry land which had been valued as potential building sites, the valuation

may be made at more than 20 years' purchase. But these lands were ordinary dry lands at the time of the acquisition though they had a potential

value as available for building purposes. We do not think that a different rule should be applied to these lands. We therefore agree with the learned

Subordinate Judge in adopting 20 times the annual net income as furnishing the correct value of the lands.

6. The appeals are allowed in part to the extent indicated above and dismissed otherwise. The parties will pay and receive proportionate costs in

this Court.