

(1957) 01 MAD CK 0035

In the Madras High Court

Case No : Civil Revision Petition No. 706 of 1955

Subramania Desikar Gnanasambanda Pandara Sannadhigal
Adhinakartha, Dharmapuram Mutt, Mayuram and Another

APPELLANT

Vs

Collector of Tiruchirapalli

RESPONDENT

Date of Decision : 10-01-1957

Acts Referred:

Land Acquisition Act, 1894 — Section 32(2)

Citation : AIR 1957 Mad 448 : (1957) 70 LW 364

Hon'ble Judges : Panchapakesa Ayyar, J

Bench : Single Bench

Advocate : S. Nagaraja Iyer, for the Appellant; Govt. Pleader, for the Respondent

Judgement

Panchapakesa Ayyar, J.—The only point for decision in this civil revision petition is whether the lower Court was justified in wholly disallowing the advocate's fee of Rs. 1,000, claimed for examining the title deeds for the purpose of investing the land acquisition money, and of Rs. 250, the advocate's fee for filing and appearing in I. A. No. 158 of, 1953. It was urged on behalf of the learned Government Pleader that the cost of the examining the title deeds cannot be included in the term "cost of investment" u/s 32(2) I cannot at all agree.

Before an investment can be made properly and no Court should encourage improper and careless investment -- the title deeds have to be very carefully examined by a competent lawyer. It would be wholly unjustifiable to disallow a reasonable advocate's fee for examination of such title deeds. If authority were required for such an elementary proposition, I may quote a decision of the Bench of the Calcutta High Court, comprising of Guha and Bartley, JJ., in Charan Manjari Dasi Vs. Land Acquisition Collector, .

It was not contended by the learned Government Pleader that Advocate's fee for filing and appearing in the I. A. cannot be granted, but he said that Rs. 5 or 10 would do. His main contention was that extravagant fees had been claimed in both respects, and that no receipts had also been produced from the advocate

concerned for having received Rs. 1,000 and Rs. 250 respectively. I agree with the learned Government Pleader that the sums claimed are extravagant and cannot be allowed in full. Only much smaller sums can be allowed to both cases. Coming to the examination of title deeds, the properties involved, and the sum to be invested, were worth Rs. 83,400.

It is usual in England for examination of title deeds in such big cases to allow one per cent, which will amount to Rs. 834. In India, half that sum alone can be allowed, as this is a poor country, where the fees paid are lesser. So, the fees may be fixed at Rs. 450 roughly for the examination of title deeds I am not impressed with the contention of the learned counsel for the petitioner that Rs. 1,000 would be required for the purpose and was really paid, in the absence of any receipt. I cannot think of a mofussil lawyer who will be paid Rs. 1,000 for examination of title deeds.

Even leading Madras lawyers may not charge that much. Nor can I agree with the learned Government Pleader that a maximum of Rs. 250 will be for examination of title deeds of properties worth Rs. 83,400. Even if the Government pays only that much to Government Pleaders, as alleged, Government Pleaders have various other sums paid to them for other kinds of work; so, that maximum will not be a criterion for paying to an advocate who had perhaps only this work given to him. So I have no hesitation in fixing Rs. 450 under this head. For filing and arguing the I. A., a sum of Rs. 50 ought to be ample, and I fix that sum.

So, a total sum of Rs. 500 is allowed by me under these two heads, as against the Rs. 1,250 claimed by the petitioner, and the Rs. 5 or 10 contended for by the learned Government Pleader in respect of the I. A. and Rs. 250 in respect of the examination of title deeds,

2. In the end, therefore, I modify the order of the lower Court by allowing Rs. 500 under both the heads together, and confirm the order of the lower Court otherwise. In the circumstances, I direct both the parties to bear their own costs throughout