
(1948) 04 MAD CK 0002
In the Madras High Court

T. Radhakrishna Chettiar

APPELLANT

Vs

The Province of Madras

RESPONDENT

Date of Decision : 07-04-1948

Acts Referred:

Land Acquisition Act, 1894 — Section 18

Citation : (1949) ILR (Mad) 497 : (1948) 61 LW 527 : (1948) 2 MLJ 159

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

Bench : Division Bench

Judgement

P.V. Rajamannar, Officiating C.J.

1. This appeal arises out of a reference made to the Subordinate Judge of Kumbakonam u/s 18 of the Land Acquisition Act in respect of the valuation of the property belonging to the appellant which was acquired under the Act. The date of the notification u/s 4(1) of the Act was 24th November, 1942. The property acquired is a site measuring 7156 sq. ft. with a building thereon and wells and trees, situated in Town survey No. 2202 of the second ward of the Kumbakonam municipality. The Land Acquisition Officer valued the site separately at Rs. 2236-4-0 calculating at the rate of five annas per sq. ft. He valued the house, compound wall, latrine and two wells at Rs. 1041 and the trees at Rs. 132-8-0. On the aggregate of Rs. 3409-12-0 he allowed the statutory allowance of 15 per cent, and awarded a total compensation of Rs. 3921-3-5. The learned Subordinate Judge confirmed the award in toto.
2. In appeal it is conceded on behalf of the appellant that the proper method of valuation to be adopted in a case like the present relating to house and ground situated in a municipality and fetching regular income is to asseess

the value on the basis of capitalisation of the net annual income. The learned Government Pleader did not seriously contest that this was the proper method.

3. It was common ground in the lower Court that the gross annual rental value of the property may be taken to be Rs. 233-12-0 and the net annual rental may be fixed at Rs. 154-12-4. The only question remaining for determination was as to the number of years' purchase to be adopted for capitalisation. Several decisions were cited to us on this point by both the learned Counsel for the appellant and the learned Government pleader.

As all these decisions do not go the same way, it is necessary to examine each decision to find out the principle, if any, which was enunciated in each of these cases.

4. Taking first the earliest case in *The Collector of Kistna Vs. Sreemanthu Raja Yarlagadda Sivarama Prasad Bahadur, Zamindar of Challapalli*,

the property which had to be valued was the melwaram interest in certain zamindari land. Of the two learned Judges who decided the case,

Newsam, J., approached the question from the following standpoint. It is first necessary to ascertain the gross income from the acquired land. The

next step should be to ascertain the net income. Having ascertained the net annual income it must be capitalised by computing the number of years'

purchase. This must depend upon the rate of interest prevailing on gilt-edged securities at the time of the acquisition i.e., on the date of the

notification u/s 4 of the Act. To the figure thus arrived must of course be added 15 per cent. for compulsory acquisition. Applying these principles,

having regard to "the rate of interest on gilt-edged securities at the time of the notification which was 3½ per cent the learned Judge arrived at 30

years' purchase. The other learned Judge, Venkatasubba Rao, J., agreed with Newsam, J. He observed as follows:

The return from landed property, generally speaking, reflects the prevalent rate of interest on money investments.... In the present cases, the

relevant notifications were published towards the end of 1933 and the beginning of 1934. The Government of India loan at that time took the form

of a three and a half per cent, issue liable to income tax.... When there is definite evidence that the actual return on investments is three and a half

per cent., it would be Wrong to adopt the arbitrary rule of the twenty years'

purchase. The return having been ascertained, the years' purchase is arrived at by dividing 100 by the figure of such return. In the present cases, the return is about three and a half per cent, and the number of years' purchase which it would be right to allow would therefore be about thirty.

It is true that the learned Judge earlier in his judgment observed that the rule of the number of years' purchase is not a theoretical or legal rule but depends upon economic factors. The most important of such economic factors is, as pointed out by him in illustration, the prevailing rate of interest.

In the *The Land Acquisition Officer Vs. S.V. Subba Rao and Another*, another Division Bench consisting of King and Patanjali Sastri, JJ., adopted this principle in arriving at the proper value of a site with building thereon. The learned Judges understood the decision in *The Collector of Kistna Vs. Sreemanthu Raja Yarlagadda Sivarama Prasad Bahadur, Zamindar of Challapalli*, to have laid down that it has long been the practice of the Courts in this Presidency to calculate the profits from any form of landed property as equal to the profits made by investing money in gilt-edged securities. It is important to notice that in this case the property which had to be valued was a site with building exactly similar to the property concerned in this appeal which is also a site with building. In the *The Sub-Collector Vs. Pillariseti Parthasarathi Naidu and Another*, the property acquired was a site of 648 sq.ft. in the town of Rajahmundry. The learned Judges adopted the basis of the capitalisation of the net annual rental value. The lower Court in that case had adopted 12 years' purchase whereas the claimant wanted the calculation to be made upon 30 years' purchase. The learned Judge, Krishna-swami Aiyangar, J., who delivered the judgment of the Bench, after observing that the number of years' purchase which should be adopted in a given case must vary with individual cases and will have to be decided upon the material placed before the Court, thought that 20 years' purchase should be adopted in that case as the basis for fixing the market value. The learned Judge went on to say:

This is ordinarily adopted as the basis and we see no reason to depart from the rule of ordinary practice.

The attention of the learned Judges was drawn to *The Collector of Kistna Vs. Sreemanthu Raja Yarlagadda Sivarama Prasad Bahadur, Zamindar of Challapalli*, and *The Land Acquisition Officer Vs. S.V. Subba Rao and Another*,

But they do not express any dissent from the decision in either of those cases. Krishnaswami Aiyangar, J., points out, and if we may say so with all respect rightly, that the first of these cases dealt with the compensation awardable in respect of the melwaram right of a zamindar on zamindari property and the second of the cases had reference to a site with a building thereon in the town of Calicut. The learned Judge was evidently distinguishing these two cases from the case before him which related to a vacant site. Reference was made to the dictum of Venkatasubba Rao, J., that there is no uniform or rigid practice in regard to the number of years' purchase. We do not understand this case to lay down that the ordinary rule is to adopt twenty years' purchase as the basis for fixing the market value of any kind of property. If that were so, the learned Judges should have expressly dissented from the two earlier decisions, but they nowhere expressly dissent from them. In Revenue Divisional Officer, Trichinopoly v. Varadachari (1944) 1 M.L.J. 142 the subject matter of the of the acquisition was ryotwari land. Horwill, J., who delivered the judgment Bench dealt with the two decisions in The Collector of Kistna Vs. Sreemanthu Raja Yarlagadda Sivarama Prasad Bahadur, Zamindar of Challapalli, and The Land Acquisition Officer Vs. S.V. Subba Rao and Another, . Referring to the latter decision, the learned Judge said as follows:

In The Land Acquisition Officer Vs. S.V. Subba Rao and Another, the learned Judges, as already stated, were considering the value of a site in Calicut. It is not necessary for us to express any view on this departure from past practice; for 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.

He then gives reasons for his conclusion with which we are not now directly concerned. Krishnaswami Aiyangar, J., was the other Judge who formed the Bench. The learned Judges did not understand the case in The Sub-Collector Vs. Pillarisetti Parthasarathi Naidu and Another, to have laid down any general rule of valuation, because Horwill, J., says with reference to that case,

In a case that has been decided since The Land Acquisition Officer Vs. S.V. Subba Rao and Another, to which one of us was a party, namely.

The Sub-Collector Vs. Pillariseti Parthasarathi Naidu and Another, it was held that thirty years'" purchase did not give the probable value of the

land. It was found on the facts of that case that twenty years" purchase gave the nearest practical approach to the value of the land.

Besides these reported cases, the learned Government pleader drew our attention to three unreported decisions of Division Benches of this Court.

In The Revenue Divisional Officer, Tuticorin v. Arumugham Pillai Appeal No. 345 of 1941 decided by Sir Lionel Leach, C.J, and Lakshmana

Rao, J., the lower Court had awarded compensation capitalising the annual rental value on the basis of 13 years" purchase. After referring to the

case in the The Sub-Collector Vs. Pillariseti Parthasarathi Naidu and Another, the learned Judges say that twenty years" purchase would be the

proper basis for the assessment of the value. There is no discussion of any principle nor does it appear that there was any contention that the

number of years for capitalisation should be fixed with reference to the yield of Government securities. In Bibi Rukia v. The Revenue Divisional

Officer, Mangalore Appeal 289 of 1941 Krishnaswami Aiyangar and Somayya, JJ., arrived at the basis of 20 years" purchase but why they did so

is made clear from the following words:

As things stand and taking the facts which appear in this case, we shall not be justified in awarding anything more than the value to be arrived at on

the basis of 20 years" purchase, the annual rental value being taken to be Rs. 1,000.

In Venkatachalapathi Iyer v. Revenue Divisional Officer, Kumbakonam Appeal No. 29 of 1942 Sir Lionel Leach, G. J. and Shahabuddin, J., in a

short judgment without any discussion held that ten years" purchase adopted by the lower Court was wrong and that when property values are

fixed on the basis of net annual rental, it is usual to give 20 years" purchase. It does not appear that the decisions in The Collector of Kistna Vs.

Sreemanthu Raja Yarlagaadda Sivarama Prasad Bahadur, Zamindar of Challapalli, and The Land Acquisition Officer Vs. S.V. Subba Rao and

Another, were brought to the notice of the learned Judges.

5. After a consideration of all these cases, it appears to us that both on principle and on account of the similarity of facts, the valuation in this case

should follow the basis adopted by King and Patanjali Sastri, JJ., in The Land

Acquisition Officer Vs. S.V. Subba Rao and Another, . There, as here, the property acquired was land with building thereon. The number of years" purchase was arrived at by taking into account the interest yielded by Government securities at the time of the notification u/s 4(1) of the Act. In the present case it appears from the judgment of the lower Court that it was not disputed that gilt-edged securities were carrying interest at three per cent, at the time of the acquisition. The annual rental value must therefore be capitalised at 33 1/3 years" purchase. To the value thus arrived, the statutory allowance of 15 per cent must be added. The appeal is allowed as indicated above with proportionate costs both here and in the Courts below.