

(1930) 09 MAD CK 0001
In the Madras High Court

The District Labour Officer

APPELLANT

Vs

Veeraghanta Venkatasubrahmanya Sastri

RESPONDENT

Date of Decision : 15-09-1930

Acts Referred:

Citation : 129 Ind. Cas. 251 : (1930) 32 LW 788

Hon'ble Judges : Wallace, J;Bardswell, J

Bench : Division Bench

Judgement

1. This is an appeal against the decision of the lower Court in the matter of the compulsory acquisition of the claimant's land. 32 cents belonging to

him were acquired. The land is situated in Old Survey No. 215, now Re-survey No. 142 in Kattunga village. The Acquiring Officer gave an award

at the rate of Rs. 10 per cent which the lower Court has increased to Rs. 15. There was also a tamarind tree acquired for which the Acquiring

Officer gave an award of Rs. 80 which has been increased by the lower Court to Rs. 120, Government appeals against the decision of the lower

Court and the claimant has filed a memorandum of cross-objections.

2. The learned Government Pleader on behalf of the Government has argued a point of law as well as argued the case on the merits. The point of

law is this. The notice "about the enquiry was served upon the claimant on 19th August, 1925, and it directed him to appear on 3rd September,

1925. Section 9(3) of the Land Acquisition Act directs the Collector to serve notice on the claimant to the same effect as the notice in Sub-section

2. The notice in Sub-section 2 is to notify the claimant to appear before the Acquiring Officer ""at a time and place mentioned therein, such time not

being earlier than 15 days after the date of publication of the notice."" When that

is applied to Sub-section 3, it would mean that the notice to be served upon the claimant should direct him to appear at a time not earlier than 15 days after the service of the notice. The question is whether "not earlier than 15 days" means that the claimant is to have 15 days clear before he need appear, i.e., before the date of the enquiry or whether the date of enquiry may be on 15th day. The language used seems to us unhappy and there is something to be said for an interpretation either way.

The only reported case exactly on the point to which our attention has been called is in *Tara Prasad Chaliha Vs. Secy. of State and Another*, where a Bench of the Calcutta High Court has decided for the present claimant's view. No particular reasons are given, but in the circumstances and having regard to the fact that if there is any real dubiety in interpretation in matters of procedure like that, the benefit of the doubt ought to be given to the party, we follow the interpretation of the phrase given by the learned Judges in Calcutta. We might add that in order to avert further difficulties of the same kind in future, it would be wise if Acquiring Officers gave more than 15 days clear notice in the notices issued u/s 9.

3. It is, therefore, open for us to go into the merits of the case, the claimant not being precluded from putting forward his case, although he did not object u/s 9 since the notice given to him was defective.