(1935) 09 MAD CK 0032

In the Madras High Court

The Revenue Divisional Officer APPELLANT

Vs

Venkatarama Ayyar RESPONDENT

Date of Decision : 23-09-1935

Acts Referred:
Land Acquisition Act, 1894 — Section 18

Citation : AIR 1936 Mad 199 : 160 Ind. Cas. 967

Hon'ble Judges : Varadachariar, J;Cornish, J

Bench : Division Bench

Judgement

1. These appeals arise out of a batch of references to the Court u/s 18 of the Land Acquisition Act, The lands acquired, 37 and odd acres in extent, form a block of territory between the South Indian Railway, and the river Cauvery near Trichinopoly, and have been acquired for the purpose of making a new bund in the place of the old flood bank which was washed away by the serious flood in 1924. The lands are of the same quality throughout, that is to say, single crop land. The notification under the Act was made on October 20, 1925, and that is the date for determining the market value of the land. The claimants put the value at Rs. 17-80 per cent. The Acquisition Officer awarded Rs. 12 per cent, and the Court had given Rs. 16 per cent.

2. There is evidence of two sales of land within this block which occurred on February 12, 1919, and April 7, 1923, when plots of 20 and 32 cents were sold at Rs. 15 and Rs. 15 10-0 per cent respectively. But these sales were prior to the flood, and undoubtedly that disaster has diminished the market value of the land. The Court has, therefore, rightly set off this drawback against the rise in value of the lands indicated by the difference in rates as between the two sale deeds already referred to.

3. The Subordinate Judge has been principally guided by the Tahsildar''s report made in 1925 with reference to the proposed acquisition of this land and of neighbouring land by the Municipal Council. The Tahsildar recommended a price of Rs. 17-8-0 per cent. But it appears that the Tahsildar regarded this as the

extreme price, for, in para 6 of his report he suggests that the owners might be willing to accept something between Rs. 15 and Rs. 17-8-0. The Revenue Inspector put the value at Rs. 15. We think that this figure may be taken as the market value. The lands which were selling in 1923 for Rs. 15-100 per cent might have been expected to fetch something more in 1925, but allowance must be made for the depreciation in value by reason of the flood disaster. It is true that the Acquisition Officer in his award stated that the fertility of the acquired lands has not been much affected, but the evidence shows that the disaster had diminished the capacity of the people in the locality to purchase lands.

4. A further question is raised with regard to 6 per cent, interest given by the Subordinate Judge as compensation for the period of occupation by the Public Works Department Officer prior to the award, that is, from January 1(5, 1925, to December 31, 1927. Urgent possession was required, and the consent of the owners obtained. The two sections of the Act which make provision for Government taking possession are Section 16, which says that the Collector may take possession of the land after the award is made, and Section 17, which says that in cases of urgency the Collector may take possession even before the award has been made. Sub-section 3 of Section 17 makes provision for compensation to be paid when such urgent pospession is taken. It requires that compensation for the standing crops and trees (if any) on the land and for any other damage sustained by sudden dispossession shall be offered to the parties interested and in case such offer is not accepted, the value of the crops and trees and the amount of such other damages shall be allowed for in awarding compensation for the land, But the facts of this case do not exactly fall under Sections 16 and 17.

5. We have, however, been referred to Vallabh das Naranji Khot v. Development Officer, Bandra 53 B 589 : 117 Ind. Cas. 13 : AIR 1929 P.C. 163 : 33 CWN 785 : 31 Bom LR 834 (1929) ALJ 707 : 30 LW 69 : 57 MLJ 139 : (1929) MWN 822 : 50 CLJ 45 : 56 IA 259 7 which we think furnishes a precedent for the award of interest by way of compensation in circumstances which are very similar to the present. It was there said Their Lordships agree, that the justice of the case was met by holding that the appellant was entitled to compensation for the occupation of the Tands by the officials before: the notification of November 4, 1920, which, as before stated, was awarded in the form of interest in the value of the land computed from the date when the Government took possession. As pointed out in Inglewood Pulp and Paper Co. v. New Brunswick Electric Power Commissioners (1928) AC 492 : 97 LJ P.C. 118 : 139 LT 593, the right to receive interest takes the place of the right to retain possession. We think that the principle of those cases can be applied to the present case.

6. Section 34 of the Act says that the amount of compensation, if not paid on or before taking possession of the land, shall carry interest at the rate of six per cent, per annum from the time of taking possession until the compensation money is paid. No doubt Section 34 contemplates an award having been made.

But the foundation of the section is that when compensation is payable and has not'' been paid, interest for non-payment must be given from the date of taking possession. We think that the lower Court was right in awarding 6 per cent, interest the rate fixed by Section 34, from the date on which the Government Officer took possession.

7. The appeal is, therefore, allowed in part with regard to the rate of compensation awarded; it will be reduced from Rs. 16 per cent to Rs. 15 per cent. The memoranda of objections are dismissed without costs. The Government will pay half the costs of the appeals in the cases where memoranda of objections have been filed but in the other two cases they will pay full costs to the respondents.

