
(1914) 07 MAD CK 0040
In the Madras High Court

V.K. Rajammal

APPELLANT

Vs

The Headquarters Deputy Collector

RESPONDENT

Date of Decision : 20-07-1914

Acts Referred:

Citation : AIR 1915 Mad 356(2) : 25 Ind. Cas. 393

Hon'ble Judges : Wallis, O.C.J.;Kumarasawmy Sastri, J

Bench : Division Bench

Judgement

1. This case comes before us rather in an unsatisfactory manner. The District Judge has commented on the fact that the Deputy Collector did not give a proper opportunity to the claimant to adduce evidence of the value of the land which was to be acquired, and at the hearing the claimant has not supported her case on some points by very satisfactory evidence. Then there are some points as regards which the District Judge has followed the report of the Tahsildar--which is not before us--and which, therefore, we are unable to attach any weight to. Nor was the Tahsildar examined as to the reasons for his report. The net result is that it is very difficult for us to come to a conclusion satisfactory to our own mind and all that we can do is to do the best we can upon the materials before us.

2. At first, as regards the value of the house, the District Judge points out that Mr. Cornwell adopted a totally erroneous method of valuation, what it would cost to build such a house now. The District Judge has rightly disregarded that. But we think he has not paid sufficient attention to the evidence as to the prospect of rents rising in Vellore, which is undoubtedly a place of growing importance, which has recently been elevated to a Collectorate and which, it is not unlikely, will have other offices established soon. There certainly is evidence that the rents not only of officials but of Missionaries like Mr. Coles have been rising of recent years and the rent of this house was raised from Rs. 65 some years ago to Rs. 80 in consequence of some repairs which were done. We think that we shall not be going far beyond the mark if we allow Rs. 90 as the rent upon which the compensation should be calculated. There are no taxes on this house as it is

outside the Municipal limits, and consequently the only reduction that we have to make is for repairs, The District Judge has taken into account the expenses of the repairs which the Public Works Department have proposed to effect subsequent to acquisition. We do not think that this is the right test. The Public Works Department are, no doubt, proceeding, we dare say quite rightly, on a very handsome scale and in a very thorough fashion. But what we have to consider is, what are the sort of repairs that a tenant would be likely to ask for and get from a landlord in the position of a claimant; and we do not think that they are likely to be on anything like so large a scale. The ordinary allowance for repairs is one month's rent and we propose to apply that; so that deducting from Rs. 1,080, which is twelve months' rent at Rs. 90, we have Rs. 990 as the net annual rental value. We have decided to take twenty years' purchase, which is the rate allowed by the District Judge, which gives Rs. 19,800 which, on the whole, seems to us not to be an unfair amount.

3. Then as regards the trees the evidence is exceedingly unsatisfactory. Obviously the plaintiff's evidence must be greatly discounted. There is no evidence at all on the other side except the Tahsildar's report which we have not seen. He estimated the rental from the trees at Rs. 100. Having regard to the number of trees and the evidence in the case we think that, making all proper allowance, Rs. 150 is a reasonable annual rental. Then the Judge has allowed eight years' purchase for the trees. No reasons are given for it, nor is the Government Pleader in a position to suggest how this figure was arrived at. Mango trees are as a rule long-lived and produce for a long period of years and in the absence of any satisfactory evidence we see no reason to give a different rate for trees. We, therefore, allow twenty years' purchase for mango trees at Rs. 150: that makes Rs. 3,000.

4. We are not prepared on the evidence to disturb the District Judge's finding of Rs. 200 an acre for the compound.

5. We do not think that the District Judge was right in making the appellant pay the Collector's costs, though we think he was quite justified in depriving her of her own costs under the discretion given to him u/s 27 of the Act. Therefore, we direct the decree as to costs to be modified by making each party bear his own costs in the lower Court, As regards the costs in this Court the parties will give and take proportionate costs.

6. u/s 34 of the Act the appellant is entitled to interest on the additional amount which we have awarded at 6 per cent. from the date of taking possession of the premises by the Collector.