

Privy Council Appeal No. 142 of 1927.

Vallabhdas Naranji, Khot of Kanjur - - - - - *Appellant*

v.

The Collector under Act I of 1894 - - - - - *Respondent*

FROM

THE HIGH COURT OF JUDICATURE AT BOMBAY.

JUDGMENT OF THE LORDS OF THE JUDICIAL COMMITTEE OF THE
PRIVY COUNCIL, DELIVERED THE 11TH FEBRUARY, 1929.

Present at the Hearing :

VISCOUNT DUNEDIN.

LORD CARSON.

SIR CHARLES SARGANT.

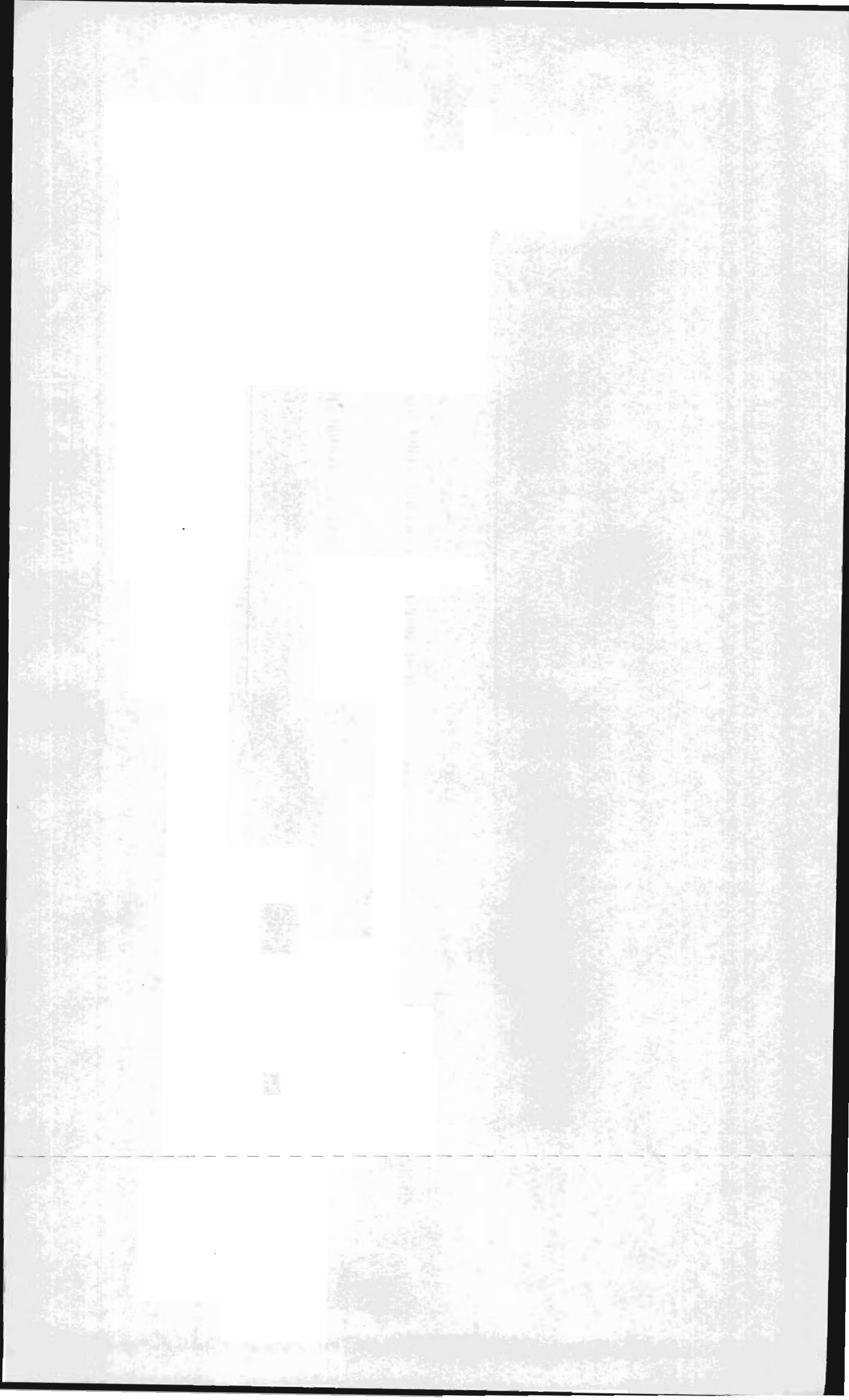
[*Delivered by* VISCOUNT DUNEDIN.]

This is an appeal against a judgment of the High Court of Bombay upon a land acquisition case by which they have given as compensation a certain figure of 14 rupees per acre, having set aside the judgment of the Assistant Judge of Thana, who had given a larger sum of 200 rupees per acre.

The land in question is an irregularly shaped piece by the sea, which is covered by the tide at various times, and which for what might be called ordinary purposes is practically useless. Land near the sea, however, has the capability that if salt works are constructed upon it it is possible to get the salt and thus establish a business. The learned Judges in the High Court say :—

“The real question is what would these lands have realised if they had been put up in the market in December, 1917, for sale by private agreement or by auction, and that apparently is a point to which neither the witness nor the Judge has paid attention. It is not suggested that there are any instances of sale of similar land in the neighbourhood, because nobody would be likely to want to purchase such land. Consequently the court is thrown back on guessing what would be fair compensation to the owner for depriving him of his land.”

The learned counsel for the appellant took umbrage at that sentence, but their Lordships do not think that there is really anything to be found fault with in it. They are of course bound by the terms of the Land Acquisition Act, which deals, in Sections 23 and 24, with the considerations that are to be taken into account in determining the value of land. Practically the statutory conditions are just what has been laid down as the law in this country. It would be useless to refer to many cases, but one case which has been quoted was the *Cedars Rapids Manufacturing and Power Co. v. Lacoste and Others* [1914] A.C. p. 569, which really followed a case of *In re Lucas and Chesterfield Water Board* [1909] 1 K.B., p. 16, in which there was an able judgment of Lord Moulton. What it really comes to is this: 'This land is absolutely worthless in itself, but it has no doubt a potentiality of being used for salt works, and therefore the owner is entitled to the market value of that potentiality, but it is the present market value of that potentiality. What is found is that in order to establish salt works it is necessary to lay out a large sum of money: it is not merely a question of taking the land and then finding that you have salt works; it is necessary to do a great deal of construction. It was proved that in one case some people had spent 7 lakhs of rupees on salt works and had not made them pay at all: but hoped that at the end of 10 years they possibly would pay. That is not what one would call very encouraging. The result is this: The learned Judges of the High Court have drawn the inference which their Lordships think is a correct one, that it would not pay anybody to pay for land of this sort, even if they were going to construct salt works upon it, more than the value as waste land. No doubt in arriving at the value of waste land, there being no sales to guide one, it is more or less guesswork. The learned Judges in the High Court have guessed it at 14 rupees, which was the figure taken by the Collector, and in their Lordships' opinion they are in no better position to make a guess, and they will therefore humbly advise His Majesty that this appeal should be dismissed with costs.



In the Privy Council.

VALLABHDAS NARANJI, KHOT OF KANJUR

v.

THE COLLECTOR UNDER ACT I OF 1894.

DELIVERED BY VISCOUNT DUNEDIN.

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