Privy Council Appeal No. 100 *of* 1930.
Allahabad Appeal No. 40 *of* 1928.

Prag Narain - - - - - - - - - *Appellant*

v.

The Collector of Agra - - - - - - - - *Respondent*

FROM

THE HIGH COURT OF JUDICATURE AT ALLAHABAD.

JUDGMENT OF THE LORDS OF THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL, DELIVERED THE 29TH FEBRUARY, 1932.

Present at the Hearing:
LORD RUSSELL OF KILLOWEN.
LORD SALVESEN.
SIR DINSHAH MULLA.

[*Delivered by* LORD RUSSELL OF KILLOWEN.]

This appeal is brought from a judgment of the High Court of Judicature at Allahabad relating to the compensation payable to the appellant under or by virtue of the Land Acquisition Act (I of 1894), which will be referred to as the Act.

The facts require to be stated in some detail for the proper appreciation of the points which are involved.

On the 9th July, 1923, the land acquisition officer of Agra (called hereafter the officer) issued a general notice under the Act for the acquisition of a block of land in the city for the purposes of a new police station. The block measured just over 1 acre, and included certain land and houses belonging to the appellant, which were known by the name Katra Nandram, and which amounted in area to some 4,109 sq. yards.

There were 18 claimants to compensation in respect of the entire block of lands, including the appellant and one Dau Dayal. The appellant's claim (as finally amended) was for Rs. 3,34,598, made up of Rs. 2,46,780 for the land (*i.e.*, at the rate of Rs. 60 per sq. yard) and Rs. 87,818 for the buildings.

The officer considered the cases of the 18 claimants and heard evidence, the hearing of which ended on the 23rd December, 1923. As to the 16 claimants other than the appellant and Dau Dayal, an agreement was come to as to the amount of compensation payable to each for his interest; but for the purpose of acquiring a title under the Act the officer seems to have drawn up a formal award (dated the 31st December, 1923) relating to the compensation payable to those 16 applicants.

On the 10th January, 1924, he made his award, dealing with the claims of the appellant and Dau Dayal. In it he states that agreement had since the hearing been reached with the other claimants, that an award statement regarding them had been drawn up and the amounts paid, and that the present award related to the cases of the appellant and Dau Dayal only. By that award he divided the appellant's land into three zones, to which he attributed different figures, as follows:—1°. Four hundred square yards of land with a street frontage of 120 feet he put at Rs. 13 per square yard. 2°. Four hundred and ninety-five square yards, "spotted over with the houses of permanent tenure holders," he put at Rs. 6 per square yard; and 3°. the remaining 3,214 square yards, which consisted of the non-frontage land upon which there were no permanent tenure holders, he put at Rs. 8 per square yard. These figures worked out at Rs. 33,882 for land. For buildings he fixed a figure of Rs. 34,537, making a total figure of Rs. 68,419. To this sum had to be added the 15 per cent. provided for by section 23 (2) of the Act, so that the total compensation awarded by the officer to the appellant for his interest was Rs. 78,682.

It would appear that, so far as concerned the 495 square yards, the sum to be paid to the appellant was reduced from Rs. 8 per sq. yard (the full value of the non-frontage land) to Rs. 6 per sq. yard owing to the interest therein of the permanent tenure holders.

Both the appellant and Dau Dayal were dissatisfied with the award and applied for a reference to the District Judge under section 18 of the Act. In the case of the appellant the District Judge affirmed the award of the officer as to the buildings and allowed Rs. 34,537. In regard to the land he allowed Rs. 20 per sq. yard for all except the 495 sq. yards over which the permanent tenure holders had rights, making a further sum of Rs. 72,280. As regards the 495 sq. yards, he only allowed Rs. 220 as the capitalised value of the rents (Rs. 5 or thereabouts) of which the appellant was in receipt. In addition, he allowed a sum of Rs. 1,200 in respect of a claim for loss of rents, making a total sum of Rs. 1,08,237 in respect of buildings and land, which with the 15 per cent. above-mentioned, resulted in a total sum of Rs. 1,24,292 fixed as compensation for the appellant.

From that decision the appellant appealed to the High Court at Allahabad, asking that the full amount of compensation

claimed by him be allowed. The High Court allowed the appeal in part and modified the decree of the District Judge to the extent now to be mentioned. As regards the valuation of the land at Rs. 20 per square yard, they agreed with the District Judge. As to his valuation of the buildings they increased the rate per 100 cubic feet allowed by him. As regards the 495 sq. yards, the High Court considered that the District Judge was not justified in assuming that the appellant's rights in this land were limited to the receipt of Rs. 5 per annum. The learned Judges considered that since the appeal to the District Judge only related to amount and not to apportionment, he ought to have accepted the officer's rates of apportionment, viz., one-fourth to the tenants and three-fourths to the appellant. Applying these proportions to the 495 sq. yards, the result would be that the appellant would be entitled to Rs. 15 per sq. yard in respect thereof. The appellant in the High Court claimed to be entitled to the whole Rs. 20, less only the sums which by agreement had been paid to the tenants and accepted by them, but this contention was disallowed by the High Court. As a result it appeared that the judgment of the High Court involved an addition of Rs. 11,231.15 to the amount allowed by the decree of the District Judge.

Encouraged no doubt by the knowledge that each of his previous applications has resulted in an increase in his compensation, the appellant has now appealed to His Majesty in Council.

In his case lodged here the only point taken was that the compensation awarded was too low, the valuations placed upon the land and buildings respectively being insufficient in amount. An appeal confined to these contentions had obviously small hope of success. It is well settled that this Board will not review the decree of an Indian Appellate Court merely upon questions of value; and in this connection it will be sufficient to cite the words used by Lord Buckmaster in delivering the judgment of the Board in the case of *Narsingh Das* v. *Secretary of State for India in Council* (52 Ind. App. at p. 135):—

> ". . . it has been repeatedly laid down by the Board that in such cases they will not interfere with judgments of the Courts in India as to matters involving valuation of property and similar questions where knowledge of the circumstances and of the district may have an important bearing on the conclusion reached, unless there is something to show, not merely that, on the balance of evidence, it would be possible to reach a different conclusion, but that the judgment cannot be supported as it stands, either by reason of a wrong application of principle or because some important point in the evidence has been overlooked or misapplied."

Counsel for the appellant concentrated upon a different point. He contended that since the High Court had valued the 495 sq. yards at Rs. 20 per sq. yard, the whole of the resultant sum of Rs. 9,900 belonged to the appellant subject only to the payment thereout of what might be necessary to satisfy the claims

of the tenants; and that since the tenants had by agreement accepted a sum amounting to Rs. 990 (or Rs. 2 per sq. yard), the appellant was entitled to the whole difference between these two sums (viz., Rs. 8,910), and not merely to three-quarters of Rs. 9,900.

Their Lordships are unable to take this view. Indeed, it appears to them that the possibility of raising such a contention has only arisen from a failure to observe strictly the provisions of the Act.

As their Lordships read the Act, the duty of the Collector under section 11 of the Act is to make an award in regard to three matters, viz., (1) the area of the land included in the award; (2) the total compensation to be allowed for that land, and (3) the apportionment of that compensation among all the persons interested in that land.

The Act does not appear to contemplate that where more than one person is interested in a parcel of land there should be more than one award relating thereto.

Their Lordships do not by this mean that the whole of the land at any one time to be acquired under the Act must necessarily be dealt with in one award; but only that any one piece of land (forming part of the whole) in which more than one person has an interest for which he can claim compensation, ought not to be made the subject of more than one award. Each award should contain within its four corners the fixing of the value of the land with which it deals, and the apportionment of that value between the various persons interested in that land.

In the present case the difficulty has arisen from the fact that the officer has dealt with the land by two documents, and, so far as the 495 sq. yards are concerned, that particular parcel of land figures in both. Their Lordships, however, think that the two documents (the later of which specifically refers to the earlier) must be read together as constituting one award in relation to that parcel of land, by which the officer awards the compensation to be allowed for that land at a figure of Rs. 8 per sq. yard and awards the apportionment of that compensation in the proportion of one-fourth to the appellant and three-fourths to the tenants.

The only objection ever taken by the appellant was to the amount awarded as compensation. No objection was ever made to the award as to apportionment; the apportionment accordingly stands and the appellant must be held bound thereby. There can therefore be no foundation for the appellant's claim to be entitled to the extra amount which the tenants might have received if they had not by agreement accepted three-quarters of a lower valuation. All that the appellant can claim is his awarded proportion of the Rs. 20 per sq. yard. The gain is a gain of the Municipality which acquired the land, as it was held to be in the case of *Rohan Lal* v. *The Collector of Etah* (51 Allahabad 765).

The appellant further contended that he had been hardly dealt with in the Courts below as to costs, but their Lordships see no reason for suggesting any alteration of the decrees in this regard.

In the result this appeal fails and should be dismissed with costs. Their Lordships will humbly advise His Majesty accordingly.

In the Privy Council.

PRAG NARAIN

v.

THE COLLECTOR OF AGRA.

DELIVERED BY LORD RUSSELL OF KILLOWEN.

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