

PRIVY COUNCIL

Fort Press Co., Limited

Vs.

Municipal Corporation of the City of Bombay
(Lords Buckmaster, Atkinson, Sumner J. Carson and Sir John Edge.JJ.)

25.5.1922

JUDGMENT

Lord Buckmaster J.

1. In this case the Corporation of Bombay entered into negotiations during the years 1916 and 1917 with the appellants (The Fort Press Company, Limited) for the purpose of acquiring from them by agreement certain lands that were needed for local purposes. Those negotiations were not successful and on the 26th July, 1917, while they were still pending, the Government issued, under the Land Acquisition Act, at the request of the Corporation, a notification that the lands were required to be taken by the Government for a public purpose. That notification was followed in due course by a notice on the 22nd August, 1917, signed by the Deputy Collector of Bombay. The Collector proceeded in accordance with the powers conferred upon him by the Act to hear the dispute, but on the 12th September, 1917, the negotiations between the appellants and respondents were reopened and a proposal was made by the Fort Press Company stating that they were willing to accept without prejudice Rs. 1,45,517, inclusive of 15 per cent., for compulsory acquisition and the cost of the chimney as the price of the property, subject to certain specified deductions. This proposal was accepted and approved on behalf of the Corporation of Bombay. This alteration in the position of the parties was brought before the Collector in due course but at an adjourned hearing on the 27th January, 1918, it was denied on behalf of the appellants that any agreement had been reached, and the Collector accordingly further adjourned the proceedings, in order that, as their Lordships understand the report of what took place, the parties might take the necessary steps to settle whether or not a bargain had been made. Those steps were taken with promptitude by the respondents, who instituted proceedings in the High Court of Judicature at Bombay on the 12th March, 1918, asking for a declaration that there was a contract and for a very large number of points of ancillary relief. They succeeded before both Courts, namely, that exercising

original and that exercising appellate jurisdiction and from the latter this appeal has been brought. The foundation of the appellants' case rests on the assertion that when once proceedings for compulsory acquisition have been set on foot, the interested parties cannot come to any binding agreement regulating the amount of the purchase price. There is nothing whatever in the Land Acquisition Act itself to negative any such right. If the parties before the institution of the proceedings contemplated by that Act, chose to agree, they were perfectly competent to do so and there is nothing whatever in the words of the Act to suggest that this power is thereby taken away. The Act certainly does not directly affect such a result, nor can their Lordships ascertain any reason why the fact, that compulsory powers have been invoked in order to secure property from unwilling vendors, should be regarded as denuding all parties of rights they possessed before the proceedings began.

2. In the present case, the Corporation of Bombay enjoys by virtue of its Municipal Act of 1888, express power to acquire immoveable property at certain terms and rates and prices as may be thought right by the Commissioner when approved by the Corporation, and consequently the Board is not faced with the consideration of the question as to whether there was any initial informality in the power of the respondents to do what they have done.

3. Their Lordships think that the agreement made, which is down established beyond dispute, is an agreement which bound the parties and that the High Court exercising their appellate jurisdiction, were right in the view they took.

4. Their Lordships' opinion is not intended to interfere with the jurisdiction of the Collector. It may be a very unusual thing that he should proceed to determine what in his view the price should be, after he had evidence of a complete contract on the point, but if he thought right to do so their Lordships' judgment will not affect his taking such a course.

5. All they decide is that the parties, who were competent before the proceedings to agree what they thought was the right price for the property, remain competent after the proceedings and an agreement so made is capable of being enforced in the Courts in the ordinary way.

6. For these reasons in their Lordships' opinion this appeal fails and must be dismissed with costs, and their Lordships will humbly advise His Majesty accordingly.

Appeal dismissed.

