

PRIVY COUNCIL

R.B. Lala Narsingh Das

Vs.

Secy. of State for India

Privy Council Appeal No.40 of 1924
(Lords Buckmaster and Dunedin and Sumner JJ.)

05.12.1924

JUDGMENT

LORD BUCKMASTER J.

1. The appellant is the owner of a plot of land having a front age on the west side of Montgomery Road, Lahore. The Government of the Punjab, requiring this land for the purpose of a Police Post, duly notified the appellant on 7th July, 1917, that the land was so required and directed the Collector of the District to take steps for its acquisition. The price not being agreed a reference was taken to determine the value and an award was consequently made allowing the appellant at the rate of Rs. 2,000 per kanal for the land. The appellant refused to accept this award and the case was accordingly referred to the District Judge of Lahore who delivered judgment on the 15th April, 1919, affirming the award.

2. An appeal was thereupon laid to the High Court of Lahore, who varied the judgment of the District Judge in favour of the appellant and increased the allowance to about Rs. 3,000 per kanal. From this judgment the appellant has once more appealed to His Majesty in Council. The first comment to be made upon the appeal is this ; that before 1921 such an appeal would have been incompetent, as was decided in *Rangoon Botatoung Company, Limited v. The Collector, Rangoon* but the Land Acquisition Act, 1894, was amended in 1921 in the following way:-

"Section 2. - section 26 of the Land Acquisition Act, 1894 (hereinafter referred to as the said Act), shall be re-numbered 26 (1), and to the said section the following sub-section shall be added namely :-

" ' (2) Every such award shall be deemed to be a decree and the statement of the grounds of every such award a judgment within the meaning of Section 2

Clause (2), and Section 2, Clause (9), respectively, of the Code of Civil Procedure, 1908." and it is under this section that the present appeal is maintained. The matter, therefore, must be considered and determined in the same manner as if it were a judgment from a decree in an ordinary suit, but 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.

3. Now, the principle upon which valuation of property compulsorily acquired should be measured, has been repeatedly laid down before by this Board and by the House of Lords. To use the words to be found in *Fraser v. City of Fraserville*, LR (1917) AC 194.

"It is the value to the seller of the property in its actual condition at the time of expropriation with all its existing advantages and with all its possibilities, excluding any advantage due to the carrying out of the scheme for the purpose for which the property is compulsorily acquired."

4. Their Lordships are unable to find that this principle has been departed from by the High Court in the judgment that they have formed. The learned Judges appear to have examined the cases of the sales of property in the district and rejected those which, from their different locality and the different possibilities of value due to their position, were, in their judgment, inapplicable, and to have dealt with this case by considering the value of the land immediately adjacent at the rear and excluded from the road as determined by actual sale then to have assumed that the land in dispute was added with the advantages of the frontage and thus to have fixed a value for the whole and then taken the fractional value of this sum represented by the ratio of the area of the land in question to the entire block and given to it the whole added value due to the frontage. Their Lordships see nothing wrong in the Court being thus guided to their conclusion, and the question as to the amount which they thought right to add for the advantageous position that the present property occupied, their Lordships are not prepared to examine.

5. For these reasons they think that this appeal should be dismissed with costs, and they will humbly advise His Majesty accordingly.

6. A small matter of the judgment was the omission of the right to interest to which the appellant is entitled at the rate of 6 per cent. as from the 7th July 1917, when the land was acquired.

Appeal dismissed.

Cases Referred.

(1912) 40 Cal 21 : 39 IA 197 : 12 M LT 195 : 16 CWN 961 : (1912) MWN 781 : 16
CLJ 245 : 23 MLJ 276 : 14 Bom LR 833 : 10 ALJ 271 : 5 Bur LT 205 : 16 IC 188 : 6
LBR 150 (PC).