

(1926) 02 BOM CK 0039

Bombay High Court

Case No: None

Collector of Thana

APPELLANT

Vs

Chaturbhuj Radha Krishna and
Others

RESPONDENT

Date of Decision: Feb. 16, 1926

Citation: AIR 1926 Bom 365

Hon'ble Judges: Macleod, C.J

Bench: Division Bench

Judgement

Macleod, C.J.

The claimant asked for a reference to the District Court against the award of the Collector with regard to his land measuring seven acres, seven gunthas and eight annas, situate on the road between Chembut and Ghatkoper. The Acquiring Officer awarded Rs. 500 per acre. The Assistant Judge increased the award to ten annas a square yard. He depended for that valuation on a sale to the claimant actual on August 29, 1919, at ten annas a square yard; and unless that sale could be voided on the ground that it was not a fair and bona fide sale, then it obviously afforded a good basis for an award. The acquiring Officer said:

The point for decision is whether the rate of ten annas a square yard or Rs. 1-8 a square yard could be accepted as a rate representing the true market value of the land at the date of the declaration. The first transaction in this business was dated August 28, 1919. We should find out whether there were genuine sales of land in this locality or in its vicinity about the time. A few sales are scrutinized here.

2. Eventually he found those sales, which he had scrutinized, were at rather lower values than ten annas a square yard. He described the land he had to value as kharpat and barren and its agricultural value could not exceed Rs. 400 an acre and awarded Rs. 500 an acre. Admitting for the purposes of argument that the purchase in August 1919 was a most imprudent one, still undoubtedly, owing to the impression which had gained ground that Government were making large

acquisitions in this neighbourhood for a jail, garden sites and other public purposes, there were to be found purchasers of land at high prices, and although they can only be considered in the light of the present times as imprudent, still the fact remains that land was passing from hand to hand at high rates, and there is no reason why those rates should not be considered within the term "market value." We cannot, therefore, differ from the Assistant Judge in his award and this appeal must be dismissed with costs.

3. With regard to the other appeal the land in reference consisted of three plots of land, one to the north of the Kachra railway siding and two to the south. The Collector awarded rates from Rs. 900 to 460 an acre, and awarded Rs. 2,345 for the trees on thirty gunthas of Survey No. 11. The Judge has valued all the three areas at twelve annas a square yard and has given in addition the same amount for the trees as the Collector awarded.

4. We see no reason why anything more than ten annas a square yard should be awarded for all these lands, considering the various disadvantages which have been carefully set out in the judgment. Survey No. 1 is described as low-lying, and assuming it was required for building purposes, the purchaser would have to pay a considerable amount per square yard in order to bring it up to the level of the road. Then we do not think that if the land is valued at what we may call a fancy rate of ten annas a square yard anything more should be given for the trees. Taking the whole land as it stands, the economic value was at the date of the notification considerably less than ten annas a square yard. If we are going to put a fictitious value on the property, on account of its so-called potentiality for building purposes, then that is an inclusive rate, and nothing can be allowed in addition for the trees.

5. We, therefore, amend the decree of the lower Court by allowing for 14,550 square yards a rate of ten annas a square yard with fifteen per cent, for compulsory acquisition. The compensation of Rs. 2,345 for trees is disallowed. The appellant is entitled to the costs on the amount by which the valuation is reduced.