

Naraln Dat Vs. the Superintendent of Dehra Dun

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Court : Allahabad

Decided On : Nov-09-1914

Reported in : (1915)ILR37All69

Judge : Tudball and ;Muhammad Rafiq, JJ.

Appellant : Naraln Dat

Respondent : The Superintendent of Dehra Dun

Judgement :

Tudball and Muhammad Rafiq, JJ.

1. This appeal arises out of proceedings taken under the Land Acquisition Act. Notice was issued in pursuance of Section 9 of the Act to the present appellant and he made no claim as directed under that section. The Collector made an award and the appellant applied for a reference to the District Court. In the District Court an objection was taken that as he had made no claim under Section 9, the court was not empowered to award any compensation greater in amount than that mentioned in the Collector's award. The learned District Judge held that because there had been previous negotiations between the Government on the one part and the appellant on the other in which the Government had offered to purchase the land for Rs. 65,000, whereas the appellant had offered to sell for or rather had refused to sell for, anything less than Es. 80,000, therefore there was sufficient reason for the appellant not having put forward his claim under Section 9 of the

Act. He, therefore, proceeded to hear the reference. On behalf of the Government no objection has been taken to the amount awarded by the District Judge, but it is sought to support their case and to defeat the appeal by urging that no reason, much less a substantial reason, has been shown for the appellant having failed to make a claim under Section 9 of the Act. In our opinion the appellant showed no reason, much less a sufficient reason, for not making the claim. The Judge says in his award that the appellant might well have thought that he had made it sufficiently clear to Government what he wanted. It is perfectly true that the appellant offered to sell his property to Government for Es. 80,000 which is the value he places upon it. When, however, action was taken and notice issued to him under the Act, those negotiations had fallen through and come to an end. If the appellant had made his claim he would have asked for Rs. 83,000, the value he places on the property plus 15 per cent, for compulsory acquisition. So it is quite clear that there was no reason whatsoever for his not having made his claim under the Act. The object of making an owner claim under Section 9 of the Act, is set out in the case of *The Secretary of State for India in Council v. Bishan Dat* (1911) I.L.R. 33 All. 376. It is to enable the Land Acquisition officer to make a fair, reasonable and proper award based upon a proper inquiry after the proper means have been placed before him for holding such inquiry. No inquiry as to the value of the land is stated to have been made beforehand, and if the appellant wished to retain his right of reference to the District Court he ought in justice to the Government to have come forward and placed before the Collector, in pursuance of the notice issued, all available means to enable that officer to arrive at a correct and proper award. The bare fact that previous negotiations for sale had taken place was no reason whatsoever for not putting forward his claim under Section 9 of the Act. It certainly was not sufficient reason. In our opinion Section 25, Clause (2), gives the Judge the right to decide as to the sufficiency or otherwise of the reasons for a man's non-appearance and not putting forward his claim under Section 9. In the present case no reason in our opinion was given for this non-appearance. In this view the District Judge ought not really to have allowed in his award to the appellant any sum greater than that awarded by the Collector. But as the Government has taken no objection to the amount awarded by the District Judge either in the form of a cross-appeal or cross-objections, it is not for us to

interfere with the amount so awarded. The result is that the appeal must fail and is dismissed with costs.

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