

**State of Madras and anr. Vs. R.A. Matha Gowder and ors.**

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**Court :** Chennai

**Decided On :** Apr-14-1965

**Reported in :** AIR1966Mad393

**Judge :** Veeraswami and ;Venkatadri, JJ.

**Acts :** Land Acquisition Act - Sections 4(1) and 18

**Appeal No. :** Appeal Nos. 143, 153, 155, 186, 191 and 243 of 1960 and 610 of 1961

**Appellant :** State of Madras and anr.

**Respondent :** R.A. Matha Gowder and ors.

**Judgement :**

(1) These land acquisition appeals by the State raise the question of the method of valuation of lands under acquisition. The notification under S. 4(1) of the Land Acquisition Act was made on different dates between 20-6-1956 and 18-12-1957. In all these appeals the lands were originally tea or coffee estates. It appears that even before those dates, the Superintending Engineer, Electricity, got into possession of the lands in order apparently to expedite the Kundah Project, on a promise to the owners to pay for the tea or coffee plants at rates to be determined by the Revenue department. On such entry, the tea or coffee plants on the lands were destroyed. The owners had since been, according to the appellant, paid compensation partly or fully for the coffee and tea plants at certain rates per plant.

Later on, the Government took the view that the payments at those rates were excessive and that it would suffice if compensation was paid at a certain reduced rate per acre for the tea and coffee plants. In the present proceedings, the Land Acquisition Officer valued the lands as tea or coffee estates and, after computing the market value pertaining to them, sought to deduct from the compensation therefor whatever had been paid for plants to the relative owners.

This was objected to by the owners and on reference under S. 18 of the Land Acquisition Act, the court below came to the conclusion that it was not proper to value the lands as tea or coffee estates which as such had disappeared by the dates of the notification under S. 4(1). It held that the lands should be valued as vacant lands and fixed their market value at Rs. 1500 per acre. Wherever there were still coffee or tea estates as on the dates of the notification, the court below of course valued them as such and allowed part deductions of compensation if and where it had been already paid for plants. But in the former cases, it directed that there should be no deduction at all of such compensation. It is against these orders the State has filed these appeals.

(2) The question we have to decide is whether the lands should be valued as vacant lands or as tea or coffee estates. It is contended for the Government that they should only be valued as tea or coffee estates and the amounts which had been paid to the relative owners as for plants, should be deducted from the compensation awarded to them. In our view the court below was right in holding that the lands should be valued only as vacant lands for the excellent reason that on the dates of the notification under Sec. 4(1), there were no longer any tea estates so far as these appeals are concerned. We have sent for the connected file from the Government relating to the payment of compensation for the plants and looked into the same. As far as we can gather from it, there was no understanding or agreement between the Superintending Engineer or anyone else on behalf of the government and the respective owners that in the event of acquisition of the lands, the compensation paid for the plants would be deducted from the compensation payable or awarded for the lands valued as tea or coffee estates.

On the other hand, as we said and as appears also from that file, the Superintending Engineer, Electricity, entered upon the lands prior to the date of notification under S. 4(1) on a promise to their owners that they would be paid compensation for the plants on their lands at rates to be determined by the Revenue department. The understanding went no further. Nobody knew at that time as to how the payment made or to be made for the plants was to be dealt with later on. In the circumstances, therefore, we are of the view that the payments for the plants on whatever basis were not in part payment of compensation to be awarded on acquisition and could not be taken into account in the proceedings under the provisions of the Land Acquisition Act. The compensation paid or payable for the plants should be treated as on a different and independent account and cannot be allowed to be set off against the compensation payable under the Land Acquisition Act. The respective owners in these appears would be entitled to compensation for the vacant lands at the rates determined by the court below without any deduction on account of the plants or trees.

The court below determined the market value at Rs. 1,500 in A. S. 143, 155, 186 and 191 of 1960 and 610 of 1961. This will stand. In A. S. 243 of 1960 also the extent of 22 cents will be valued at Rs. 1500 per acre but without any deduction, as in the other appeals. In A. S. 153 of 1960, no cogent argument has been addressed to us that Rs. 1800 per acre for arable waste land is excessive, or that Rs. 3750 per acre of tea plant fields is not justified. On the principle we have stated above, we do not also grant the prayer for adjustment of the full sum of Rs. 1170-87.

(3) All the appeals are dismissed, but with no costs except A. S.243 of 1960 which is allowed in part but with no costs.

(4) As to the compensation already paid by the Department to the relative owners as for plants or trees, we express no opinion, and this judgment will not stand in the way of either the State or the Electricity Board Pursuing any remedy open to any of them in respect of it.

BJ/VRB/D.V.C.

(5) Appeals dismissed.

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