

Public Works (1897) Department.

G.O., No. 302725

DATED 28. October 1897

[Despatch Abstract.]

*Suit. Letter from the Govt. Pleader Madras
reporting the result of appeal - N° 13 of 1897
on the file of the High Court in respect of
certain award of compensation for ~~certain~~
land acquired for a public purpose at
Gundur in the Nellore Dist. Comd to the
Revenue Dept.*

*File
28/10/97*

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

13
Order No 3027 W 928 1097

From The Government Pleader
Madras

No. 955

The Rev. depts

2. Copies of the

Dated 20- 10 - 97

Acute and judgment
will be awarded.

Received

Registered

Enclosures

Spare copies

4 ~~returned~~
(nos. 1, 3, 4 & 5)

SUBJECT.

Reporting the result in appeal
sent No. 13 of 1897 in the file
of the High Court.

Rev. *Sept*

S. S. II Conclusions

FURTHER PAPERS.

NELLORE COLLECTOR'S OFFICE,
Dated 19th June 1893.

Ref NO. 120912238
H. Rev.

From

Collector of Nellore.

To the District Judge, Nellore.

Sir,

I have the honor to refer the
following case to the determination of
the Court under Sec. 15 of the Land
Requisition Act of 1870

2. Dry land measuring 4.68 acres
assessed at Rs 2-15-⁴ in Survey N^o
1777
C of Gudur, Gudur Tahsil, has been
declared by the Local Government
at page 336 of the Frontier Saint George
Gazette dated 14th March 1883, as required
[Exc.: 25-3-06.]
for a public purpose - to wit - the con-
-struction of Head Assistant Collector's

Office building, and I have been authorized to take order for the acquisition of the same. The land stands registered in the names of —
 Kammur Chimpisi Kaidu of Gudur and of one Mr. T. B. Allen who is said to be a store keeper in the S. I. Railway company and has been taken possession of under Sec. 17 of the Act.

3. Chimpisi Kaidu claims to be the sole owner of the land though it has been registered in the joint names of himself and Mr. Allen and offers to be responsible for any claim that may be put forward by the latter.

4. The amount claimed as compensation however is very unreasonable. He demands at the rate of Rs 2/- per ankanam; which

comes to Rs 1250 an acre which on the face of it, is absurdly exorbitant. The reason assigned by the said Chimpisi Kaidu for such a demand is that he had intended to use the land for building purposes and then for purchasing another site for the purpose he would have to pay as much at least. He was given ample time to produce sale deeds, if any, concerning the land but has not done so as yet.

5. The Village officers say that for similar and adjoining lands taken up for public purposes, compensation has been paid at 7 times the taxam assessment. I offered him the same rate plus Rs 25/- for certain

improvements which he is said to have done to the land, but he would not have it nor come to any other starreasonable terms. Hence this reference to the Court.

6. The Kyfiets taken from the party and Village officers and copy of the award made by me are herein enclosed for reference.

I have the

(Sd). C. Ramaswami Iyer.

dy collector.

(True copy)

Sd.
dy collector

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Sent: 5/20/96

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7917

25-11
10/20/96
10/20/97

NELLORE COLLECTOR'S OFFICE,

Dated 16th Sept 1896.

Ref No. 3507-44

From

E. Scott, Esquire

Ag. Collector of Nellore.

To the

Secretary to the Board of Revenue
Land Revenue

Sir,

In forwarding herewith a copy of the award passed by the District Judge of Nellore in Reference Case no. 2 of 1893, I have the honor to suggest an appeal to the High Court in the following circumstances.

2. The Case refers to the Compensation for 4.68 acres of assessed dry field no 1777 of Gudur, becoming an assessment of Rs 2-15-0, acquired for the construction of the Head Assistant Collectors' office. - Vide declaration in the Fort St. George Gazette, dated 14th March 1893 - The land, having been required urgently, was taken possession of under Sec 17 of the Land Acquisition Act.

in April 1893. The Head Quarter
Dy. Collector, who was the officer
deputed to acquire the land, was
unable to get the owner to agree
to the amount of compensation to be
awarded. He proposed to allow seven
times the assessment, which was Rs 45-9.
(including percentage &c), besides Rs 25
for certain improvements made to the
land, while the owner, on the other hand,
demanded Rs 1210 an acre. The Dy Collector
accordingly made a reference to the District
Court under Sec. 15 of the Act. A copy
of the reference is enclosed. The case
was pending in the Court for about 3
years and in March last, an
award was passed settling the
market value at Rs 1000 an acre.
3. The award contains detailed
grounds for arriving at this value,
which is, in my opinion, still —
exorbitant for the following reasons:—
(a). The District Judge lays much
stress upon the enhanced value
which the land would bear
after the construction of the Bezawada-
Madras

Madras State Railway and after Guduvu
becomes the junction of two Railway
lines. This mode of arriving at the
market value is not contemplated
in Sec. 23 of the Act— Vide clause
1, of Sec 23(1).— In March 1893, when
the declaration for the acquisition
of the land was published, the
construction of the Madras Guduvu
Railway line had not even been
definitely settled and the work
was in fact not commenced
until October 1895. The award
is, on this ground alone, altogether
improper and invalid. And —
further, even supposing the prospective
and problematical increase in
the importance of Guduvu should
be taken into consideration, the
District Judge has altogether failed
to consider what extent of land
is available for the extension of the
town, compared with that likely
to be required. There is abundant
land

land all round Gudur station suited
for building sites and even more or
at least equally favourably situated
renders this one site, a fact which
reduces at once the probable market
value, for it is upon a probable
and not the actual market value
that the District Judge has based
his award.

(b). Too much credit is given to
the testimony of witnesses, who said
that they wanted to purchase house-sites.

(c). The witnesses for the claimant are
either interested, or are persons who
had no necessity for purchasing
house-sites. Besides the sale-deeds
produced are subsequent to the
reference to the Court and they
ought not to have been accepted
as evidence on this ground and
in the face of the Dy. Collector's
statement made in his reference,
that the claimant failed to produce
any sale-deed though he allowed
sufficient time to do so.

H. While of opinion that the award
of

of the District Court is excessive, I
consider, that the amount offered by
the Dy. Collector was less than it should
have been. Twenty times the assess-
ment of the land amounts to Rs 58-12-
adding to this, 15 percent for compulsory
acquisition and Rs 25, the amount
allowed for improvements Rs 92-9-0
is arrived at and I therefore
think that Rs ^{100 - 0 - 0}~~92-9-0~~ is a proper
amount to offer.

5. Application for a copy of the
award was made on the 24th
February 1896, or a month before
the award was actually written,
but stamps were called for only
on the 24th August and copy
itself delivered on the 26th August.
The appeal times therefore runs
to the 26th September 1896.

6. The tabular statement prescribed
in B.P. no 234. L.R. is enclosed. A.

Copy of letter from the pleader who
appeared for Govt in the case
is

me.
Directly Collectors
submit certain
statements with their
reports on the reference
of suits & the
of appeals in
of Govt.

is also enclosed.

I have the honor to be

Sir

Your most obedt Servt.

E. Scott

Ag. Collector

2006
10-7-10



Proceedings of the Board of Revenue

(Land Revenue)

No. 4350 Misc., dated 22nd September 1896.

Read letter from E. Scott Esquire, Acting Collector of Nellore, to the Secretary to the Commissioners of Land Revenue, Ref. No. 3507-ver, dated 16th September 1896.

And the following Reference thereon dated 17th September 1896.

The following ordinary telegram will be despatched to the Collector of Nellore.

"Your letter 16 " No. 3507 copy of District Judges' award not received. Please send it forthwith."

Resolution

The letter from the Collector of Nellore read above & its Enclosures will be forwarded to the Government Pleader with the request that he will favor the Board with his advice as to whether an appeal may be preferred against the District Judge's award in question with a fair prospect of success.

2. The Collector is requested to forward to the Government Pleader direct copies of the depositions of witnesses and other records of the case as also a plan of the locality.

3. The Board notes that the time allowed for appealing against the District Judge's award to the High Court is 90 days under article 156 of Schedule II to the Limitation Act and not 30 days as has apparently been assumed by the Collector. The appeal time does not expire until the 23rd November next.

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File

5806/96.

Pls. 32

10522/97

7/11/1907
(True Copy & Extract)
/signed/ R.C.C.Carr
Acting Secretary.

To

The Government Pleader, with the letter & 3 Enclos. to be
returned.

The Collector of Nellore.

(True Copy)

Reelan

Acting Secretary.

Md.R.H.

1896.

Board of Revenue

(Land Revenue),

MADRAS.

True Copy of Board's

Proceedings No. 4350 Misc.,

Dated 22nd September 1896.

Subject.

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10067/96
10522/97

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From

M. R. Ry.

A. R. Annachela Aiyer
B.A. B.L.

Pleader, Nellore

To

The Collector of Nellore

Sir,

I have already stated as
my opinion that this case is a fit one
for appeal to the High Court. I
shall state briefly the grounds.

In para 1 of the award the
District Judge seems to base his
award on the ground that the property
in question would acquire more value
on the advent of a new Railway. The
importance and value which this land
may acquire hereafter is not to be
taken into consideration in awarding
damages, but the market value then

prevailing is the only guide.

In para. 2. the District Judge, while in a great way discrediting the testimony of witnesses who took sale deeds from Chimpisi Haidu, bases his award giving credit to the story of witnesses who say that they wanted building sites and offered a little less than Rs 2 per aulhanam to Chimpisi Haidu but that Chimpisi Haidu refused to part with any portion for any sum less than Rs 2 per aulhanam. This obstinacy is construed by the District Judge to show that the claimant believed the bona-fide value to be at Rs 2 per aulhanam. This argument is very specious and moreover the witnesses that speak to it cannot be relied on as may appear from the evidence.

In the last portion of para 2

the District Judge discredits the award papers filed on our side on the ground that they cannot show the true market value. The reasoning is unsound. No man would refuse to take plenty of money assessed at fanciful rates. The award papers truly represent the then market value of the lands close by, which is the true guide.

Claimant's witnesses are either interested or had no necessity to buy building sites as they are already possessed of houses in the village. The fact that the sale deeds were come to after the reference to court clearly proves they are collusive ones.

In conclusion I may safely advise an appeal to the High Court.

High - But on some of the above
grounds. The award is herewith re-
- turned.

I have re-
(sd) A. R. Ammaladayer.

(True copy)

as collector

X Enclosures Nos 1, 3, 4
+ 5 returned.
Enclosure No 2 filed
in the High Court along
with the appeal memo
X Appeal No 13 of 1897

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Sent 5/2/96

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10522/87

Government Pleader's Office,
HIGH COURT,
Madras, 20th October 1897.

No. 900

From

E. B. POWELL, Esq.,
GOVERNMENT PLEADER,
Madras,

To

THE Secretary to Government,
Public Works Department.

SIR,

With reference to the Proceedings of
Government No 3254 W, dated 15th November
1896, I have the honor to state that
the appeal preferred by me to the High
Court against the Award of the District
Judge of Bellare in Referred Case No 2
of 1893 came on for hearing yesterday.
The High Court have reduced the
compensation payable to the claimant
from Rs. 5302 to Rs. 250. Each party
to pay their own costs in both Courts.
I pressed upon the Court that in
considering the extravagant nature of
the claim the claimant ought to have
been

been made to pay the Collectors' Costs. I am inclined to think that in making the order as regards costs the Court was influenced by the fact that if the claimant was made to pay the costs this would swallow up the whole of the Compensation allowed him.

4. I have applied for copies of the Decree and Judgment which will be forwarded on receipt.

I have the honor to be,

Yrs
Your most obedient Servant,

W. Town

Govt. Meader.