

Public Works (1898) Department.

G.O., No. 10582

DATED 27 April 1898

[Despatch Abstract.]

Pekhoier Kommi Chimpisi Naradu informed
that Government cannot interfere in the matter
of his appeal against the decision of the High Court
relative to the amount of compensation for
~~land taken up~~ certain land acquired by Govt
under the Land Acquisition Act for the Head
Asst Collector's Office at Endur, Nellore D^o.

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

Note. The petitioner, Kommi Chim-
piri Nayudu, was the owner of 4-68
acres of land at Gudur in the
Nellore district which was acquired
by Govt. in March 93 under the Land
Acquisition Act for the Hd. Asst.
Collector's Office. The man claimed
compensation at Rs 1,250 an ^{acre} ~~and~~
but was awarded by the Head
Quartr Dy. Collector Rs 45-9-0 +
Rs 25 being the value of improvements
or Rs 70-9-0 in all. Being unable

to come to any settlement with the petitioner, the Dy. Collector referred the matter to the District Judge for determination. On the 31st March 96 the District Judge gave judgment awarding — compensation, exclusive of costs, at Rs 1000 per acre + 15 p.c. commission or Rs 5382-0-0 in all. This value included prospective increase in value owing to the construction of the East Coast Railway. The award was considered excessive by the local officers, and on the advice of the Govt. Pleader an appeal to the High Court was sanctioned in G.O. No 3257 W dated 13.11.96. The appeal was successful for the compensation was reduced to Rs 250 + the usual 15 p.c. allowed under the Act. Against this decision the petitioner now appeals, but it cannot be taken into consideration as the executive has no legal power of interference vide para V(5) of the Petition rules.

[Signature]
10.4.97

Public Works (1895) Department.

CURRENT No. 3030

From Kommi Chempiri
Tayum of Gudur,
Bellary Dist.

Order

No. —

Dated 21st March 1898
Received } 2nd April 1898
Registered }
Enclosures — 56
Spare copies — 2

SUBJECT.

Compensation Appealing against the low — awarded to his land taken up for the Head Assistant Collector's office.

O.L.O. 12.
12/5/98

BACK PAPERS.

No.	Date.
854 C	12-2-98
714 C	8-2-98
468 C	25-1-98
366 C	20-1-98
37 W	7-1-98
5015 C	24-11-97
3027 W	28-10-97
3628 W	17-12-96
3257 W	13-11-96
687 W	13-3-93
3449 W	17-12-92

FURTHER PAPERS.

W^h printed pleading
in Appeal sent Apr 13 of 1897
on the file of the High Court -

To,

His Excellency,

The Right Honorable,

SIR ARTHUR ELIBANK HAVELOCK,

G. C. M. G., G. C. I. E.,

Governor in Council,

Fort St. George,

MADRAS.

The Humble Memorial of KOMMI CHIMPIRI

NAYUDU, Kamma and Cultivator,
residing in the Village of Gudur, in the
Gudur Taluq, in the District of Nellore.

SHWETH,

Your Memorialist was the absolute owner of dry land, measuring 4.68 acres, in Survey Number $\frac{1277}{6}$ of Gudur, in Gudur Taluq, in the District of Nellore; but as it was required by Government, for a public purpose, to wit the construction of the Head Assistant Collector's Office Buildings, the Head Quarter Deputy Collector of Nellore was authorized by declaration, in the Fort St. George Gazette, dated 14th March 1893, to take order for the acquisition of such land, under the provision of the Land Acquisition Act 1870; with the result that the same was taken possession of under Section 17 of that Act.

2. The land stood registered in the names of Your Memorialist and a Mr. J. B. Allen, a Store-keeper in the S. I. Railway Company; but Your Memorialist appeared before the Referring Officer, and claimed the land as sole owner thereof; offering to be responsible for any claim, that might be put forward by Mr. Allen; and Your Memorialist's claim was accordingly allowed.

3. Your Memorialist claimed as Compensation, Rupees 1,250 an acre, or Rupees 2 per *ankanan*, an *ankanan* being a standard of land measurement containing 8 square yards or $\frac{1}{8}$ of an acre, on the ground that the value of land had risen

considerably, since his purchase, because of the opening of the South Indian Railway, and further because of its being known at the time, that the Madras-Bezwada Railway would soon run through Gudur Station; but the Referring Officer awarded as compensation only Rupees 45-9-0, being 7 times the assessment of the land, plus Rupees 25, the value of improvements, in all Rupees 70-9-0.

4. The Head Quarter, Deputy Collector of Nellore, being unable to agree with Your Memorialist, as to the matter of compensation, referred the same, to the determination of the District Judge of Nellore, under Section 15 of the Land Acquisition Act 1870.

5. The matter accordingly came on for hearing before the District Judge of Nellore, as Reference Case No. 2 of 1893, on his file, and the learned Judge, after a protracted hearing, gave Judgment, in favor of Your Memorialist, on the 31st March 1896, awarding as compensation, exclusive of costs, amounting to Rupees 80-14-6, Rupees 5,382, as per particulars following:—

	Rs.	A.	P.
Amount allowed to claimant (Your Memorialist) at			
Rupees 1,000 per acre for 4-68 acre...	4,680	0	0
Commission or same at 15 per cent. ...	702	0	0
	5,382	0	0

6. The reasons, given by the learned Judge for his decision, may be summarized as follows:—The compensation allowed by the Referring Officer viz., Rupees 45-9-0, plus Rupees 25 for improvements, appeared to the District Judge to be an absurdly inadequate price to pay for 4 acres 68 cents of good building site adjoining a Railway Station, like Gudur, which was already of considerable importance, and which was soon to become more important as the Junctions of 2 Railway Lines, the S. I. Railway and the Madras-Bezwada Railway; and further the claimant having reduced his rate from Rs. 2 to Rs. 1-12-0 per ankanam which would give Rupees 1058-12-0 per acre, the Judge was of opinion that Rupees 1000 per acre was a fair price, seeing that the price of land, the value of which was now in question was very favourably situated, lying as it did, close to the Railway Station, in a town the population of which was bound to grow and the importance of which was bound to rise rapidly, in consequence of the construction of the new Railway. The learned Judge definitely found that there was ample evidence before him, to prove that the claimant sold small pieces of land, adjoining that road taken up by Government for Rupees 2 per ankanam and that such sales were *bonâ fide* and not collusive and fictitious; and further, that the complainant refused offers of Rupees 1-8-0 and 1-12-0 per ankanam, for other plots of land, in the vicinity. As, to the only evidence on the side of the Referring Officer, that for some other pieces of land near the Railway, which were taken up for the Head Assistant Collector's Bungalow about 2 years previously, and for a diversion of the trunk road 7 or 8 years earlier, the Collector paid only 10 times the assessment, and the owners did not dispute the fairness

of the award or require a reference to be made to the Court, the learned Judge disposed of the same with the remark, that it did not show, that the Collector paid the true market value, or that the compensations claimed by your Memorialist was excessive.

7. The Referring Officer appealed to the High Court, against the award aforesaid of the District Court of Nellore, on the following, among other grounds:—

(1) The District Judge was in error in taking into account the prospective value of the land.

(2) Section 23 of the Act lays down that the Court shall take into consideration the market value of the land, at the date of publication of the declaration.

(3) At the time of the declaration the construction of the Railway had not been even definitively settled, and the work was not commenced till 3 years after.

(4) The Sale Deeds, on which the District Judge bases his finding in para 3 of his award, were executed long after the reference by the Deputy Collector, and are obviously collusive transactions, got up to support his claim for higher compensation, than that allowed by the Deputy Collector.

(5) The evidence of claimant's witnesses is untrustworthy.

(6) The District Judge has given no satisfactory reason for not accepting, as the market value, compensation paid for similar lands in 1894.

8. The appeal which was Appeal Suit No. 13 of 1897, on the file of the High Court, came on for hearing on the 17th October 1897, before their lordship's Subramaniya Aiyar and Davies, J. J., who modified the Judgment of the District Court of Nellore by allowing Rupees 50 per acre, as compensation, plus 15 per cent as Rupees 50; and directing each party to bear his own costs; their Lordships observing, that there was no evidence on either side, that the Sale Deeds were subsequent and irrelevant; and that the evidence for the Collector was not good.

9. Before referring to the Judgment of the High Court which, for the reasons to be hereafter stated, is against law, it is well to make the following brief observations, on the foregoing grounds of appeal, urged before the High Court, by the learned Government Pleader, and which must have, in a measure, influenced their lordships;

Ground (1). This argument might have some force, only in a Case where the prospect of realizing a good value was remote and contingent; but not in a case as in the present one, where such prospect was in the near future.

Ground (2). Section 23 of the New Land Acquisition Act of 1894 does not apply. The case being governed by the old Act of 1870, the District Judge was bound under

Section 24 of the latter Act, to "take into consideration the Market Value of the land at the time of awarding compensation" and not that obtaining "at the date of publication of the declaration," as urged by the Appellant.

Ground (3). No observation here is necessary, in view of that already made against ground (2); except to point out that the South Indian Railway, having been already in operation, with a Station at Gudur, the value of the land must have risen considerably, since the purchase thereof by the claimant.

Ground (4). This is simply gratuitous. No proofs can possibly be added to show that the Sale Deeds were collusive, or that they were got up to support your Memorialist's claim, for higher compensation than that allowed by the Referring Officer.

Ground (5). This statement is likewise gratuitous.

Ground (6). On the contrary the District Judge has given the best reasons possible, for not accepting the value paid for similar lands in 1894 viz., it was not proved that the Collector on that occasion paid the true market value for the land.

10. The Judgment of the High Court in the above Appeal Suit is against law for the following among other reasons:—

(1) The compensation allowed by the Court is an absurdly inadequate price to pay for 4 acres 68 cents of good building site, adjoining a Railway Station like Gudur.

(2) The reference to the District Judge of Nellore, having been made under "the Land Acquisition Act of 1870," the provisions of that Act—and not those of the new Act of 1894—ought to govern the case.

(3) Under Section 29 of the Act of 1870, the decision of the Judge is final.

(4) Section 35 of the old Act provides for an appeal, only in a case when the Judge differs from both the assessors.

(5) The appeal to the High Court was barred by limitation.

(6) The learned Judges were not warranted, in omitting to take, into consideration, the circumstance, that independantly of the prospective construction of the Bezwada Madras-Railway,

which has since become an accomplished fact—the actual existence of the South Indian Railway, with a Station at Gudur at the time of the reference, had raised the prices of land in its immediate vicinity.

(7) The provision of Sections 23 of the new Act of 1894 cannot have retrospective effect.

11. Your Memorialist is advised, that his case is a good one for an appeal to Her Majesty in Council, except for its valuation being under Rupees 10,000.

Your Memorialist therefore prays that this his Memorial may be read; and that Your Excellency will be pleased after a careful perusal of the foregoing facts to redress the glaring injustice Your Memorialist has sustained, as he has no other alternative, in the case than to throw himself on Your Excellency's mercy and compassion.

And Your Memorialist will ever pray.

X mark of Kommi Chimpiri Nayudu.

I, Kommi Chimpiri Nayudu, the Memorialist named in the above Memorial, declare the same to be true to my knowledge except as to matter stated therein on information and belief; and as to those matters, I believe it to be true.

X Mark of Kommi Chimpiri Nayudu.

I certify that the petitioner Kommi Chimpiri Nayudu attested his mark in my presence.

21st March 1898. { S. Kurasinga
Ag Village Musisiff