

APPELLATE CIVIL.

*Before Mr. Horace Owen Compton Beasley, Chief Justice,
and Mr. Justice Curgenvven.*

SUBBANNA (CLAIMANT), APPELLANT,

1930,
January 8.

v.

DISTRICT LABOUR OFFICER, EAST GÖDÄVARI
(REFERRING OFFICER), RESPONDENT.*

*Land Acquisition Act (I of 1894), sec. 9 (2) and 25 (1)—
Making of a claim for a specific amount, necessary for
claiming more compensation than that allowed by the Land
Acquisition Officer.*

According to sections 9 (2) and 25 (1) of the Land Acquisition Act (I of 1894), a claim for compensation for land taken under the Act can be considered to have been made, only if the person whose property is acquired under the Act makes a claim, either orally or in writing, for a *specific* amount as compensation for his land. The mere filing by him of certain sale-deeds of neighbouring lands without making a claim for a *specific* amount will not amount to the making of such a claim, though the Land Acquisition Officer may consider the prices given in the sale-deeds to help him in the course of his duty to determine the value of the land acquired.

APPEAL against the decree of the Court of the Subordinate Judge of Rajahmundry in Original Petition No. 4 of 1927.

P. Somasundaram for appellant.

Government Pleader (P. Venkataramana Rao) for respondent.

JUDGMENT.

BEASLEY, C.J.—The appellant was served with a BEASLEY, C.J. notice under section 9 of the Land Acquisition Act

* Appeal No. 253 of 1928.

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(I of 1894), Exhibit A. The date upon which he was called upon to appear was the 21st September 1926. According to the Land Acquisition Officer, the appellant did not appear on the 21st September 1926. According to the appellant, he did appear, but appeared late, and the Land Acquisition Officer was angry with him, but nevertheless allowed him to make his claim orally at a later date, and allowed him to file two sale-deeds in respect of land close by the land under acquisition. On the 1st December the Land Acquisition Officer made his award, and in that award he commenced by stating, "The landowner did not turn up and make any claim in response to the notice issued under sections 9 and 10 of the Act. He, however, filed copies of two sale-deeds which give a rate of Rs. 2,400 and Rs. 2,450 an acre," and then he proceeded to deal with those sales, and show how those lands were distinguishable from the land comprised in the award, and he eventually valued the land under acquisition at Rs. 1,800 per acre, and awarded compensation accordingly with 15 per cent allowance extra under the Act. The appellant was dissatisfied with this award and requested the Land Acquisition Officer to refer the case to the Court. It was accordingly referred by him to the Subordinate Judge of Rajahmundry on the 27th January 1927. In that letter of reference, the Land Acquisition Officer stated that the landowner did not turn up on the date of hearing fixed for enquiry and hence the amount of compensation awarded need not be enhanced under section 25 (2) of the Act.

It is quite clear that, under section 25 (2) of the Act, if the applicant—the appellant in this case—has omitted without sufficient reason (to be allowed by the Judge) to make a claim, the amount awarded by the Court is in no case to exceed the amount awarded by

the Collector; and therefore the point for consideration by the learned Subordinate Judge was whether the appellant had made any claim for compensation. It is argued here by Mr. Somasundaram, on behalf of the appellant, that the appellant did make a claim. First of all, he contends that the evidence of the appellant is to be accepted on this point, namely, that the Land Acquisition Officer gave him an adjournment and that he made a claim and supported it by the filing of these two sale-deeds already referred to. Admittedly, two sale-deeds were filed because they were considered by the Land Acquisition Officer and are dealt with by him in his award. But the Subordinate Judge, after hearing evidence on the point, has not accepted the appellant's evidence that he made any claim. He regards his evidence as most improbable.

This case can be considered in two views, viz., (1) that the appellant did not turn up on the 21st September or turned up too late, but nevertheless the Land Acquisition Officer said that he might bring forward his claim at a later date, and that the applicant made a claim for compensation, and as evidence of his claim produced these two sale-deeds, or (2) that, having failed to turn up on the 21st September, the Land Acquisition Officer, nevertheless, allowed him to file the two sale-deeds. In the former alternative, I am of the view that the provisions of section 9 (2) of the Act would have been complied with, because the claimant is not required necessarily to make his claim in writing so long as he makes a claim for compensation, and it is in the discretion of the Land Acquisition Officer to grant him an adjournment. Supposing he does not make a claim on the first day, the Land Acquisition Officer can, if he chooses, adjourn the hearing and allow him to make a claim, and in support of this view, we were

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referred to the decision of the Punjab Chief Court in *Secretary of State v. Sohan Lal*(1). In that case, the claimant did not put in a claim on the appointed date but subsequently put in a written claim and it was held by the Punjab Chief Court that that was a sufficient compliance with the Act. But in this case, there is no written claim at all and we merely have the evidence of the claimant himself that he made a claim and that evidence has not been accepted by the learned Subordinate Judge; and we see no reason for disagreeing with the view he has taken with regard to that evidence. The case therefore is this:—that the claimant made no claim at all. He did not appear on the appointed day and therefore under the Act the Land Acquisition Officer had to use the best judgment he could and make his award in the absence of any claim. The mere fact of his having considered the two sale-deeds does not justify the argument that he must be held to have treated the amounts therein as the valuation placed upon the land by the claimant. It was his duty to make use of all the information available. Having made such an award, it was not open to the Court to make any award in excess of the amount awarded by the Land Acquisition Officer. But we are asked to say that the filing of the sale-deeds amounted to making a claim for the amount which the sale-deeds show that the adjoining lands were sold for, namely, in the one case Rs. 2,400 and in the other Rs. 2,450 per acre, and it is contended that that is a sufficient compliance with the provisions of section 9 (2) which is as follows:—

“ Such notice shall state the particulars of the land so needed, and shall require all persons interested in the land to appear personally or by agent before the Collector at a time

and place therein mentioned (such time not being earlier than fifteen days after the date of publication of the notice), and to state the nature of their respective interests in the land and the amount and particulars of their claims to compensation for such interests, and their objections (if any) to the measurements made under section 8. The Collector may in any case require such statement to be made in writing and signed by the party or his agent.”

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In this case, the claimant was not required in the notice to make any statement in writing, but we are satisfied that he did not like to make any statement orally. He placed no specific value upon the land, he did not state the nature of his interest in the land, but merely contended himself with putting in the sale-deeds. Does that justify us in drawing the inference that the amount set out in the sale-deeds was the amount which he was claiming in respect of the land which was under acquisition? I am of the opinion that it is not open to us to do that, because section 25 (1) says :

“ When the applicant has made a claim to compensation pursuant to any notice given under section 9, the amount awarded to him by the Court shall not exceed the *amount so claimed* or be less than the amount awarded by the Collector under section 11.”

The claimant has got to claim an amount. I am satisfied from a reading of that section and the other sections that a specific amount has got to be claimed. In these cases it is common for claimants in support of their claims to put in sale-deeds, many in number and varying greatly in the amount of the purchase price. If no claim for a specific amount is made, what amount is the Court to infer is claimed by the claimant? It may be the top purchase price or it may be the lowest purchase price or it may be the average purchase price; but no specific amount having been claimed, if this contention is right, it would be open to a claimant, after an

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award has been made by the Land Acquisition Officer or by the Collector, to go to the Court and say: "The amount awarded is less than the amount which I really claimed. It is quite true that the evidence shows that other lands were sold for certain amounts, but my real claim was for more than those amounts and I am entitled to an enhancement of the award made by the Land Acquisition Officer." In my view, that contention is unsound. What the Act does require is that there should be a specific claim, namely, a claim which states in rupees the value the claimant places upon his property; and there has been no such claim here and, in my view, the provisions of section 9 (2) of the Act have not been complied with. This was the only point of importance which the learned Subordinate Judge had to consider and, disbelieving the evidence of the claimant, he came to the conclusion that no claim had been made and that therefore it was not open to him to consider any enhancement of the award made by the Land Acquisition Officer. I agree with him in his findings both on the facts and with regard to the law. The appeal must therefore be dismissed with costs.

CURGENVEN,
J.

CURGENVEN, J.—I agree with my Lord and have little further to add except to point out that the first "point for determination" framed by the learned Subordinate Judge, upon which this appeal has been preferred, does not really set out the scope of the case as it has been presented before us. The terms of that "point" were whether the appellant appeared before the Labour Officer on the date fixed in the notice served on him and, if not, whether he had sufficient reasons for the omission. I should preferably have so framed it as to refer expressly to the terms of section 25 (2) of the Act, namely, whether the appellant omitted to make a claim for compensation pursuant to

any notice given under section 9, and if so, whether he had sufficient reason for the omission. The question for our determination, as my Lord has said, is whether what the appellant did amounted to making a claim. There is certainly no evidence that he made any claim on the 21st September. As regards what happened on the 18th November when he filed the two sale-deeds, he himself has stated in cross-examination that he filed a statement along with them. But even so, he does not claim that the statement comprised a precise claim to an amount of compensation, and his allegation is contradicted by the evidence of the Revenue Inspector. We must take it accordingly that either the mere filing of the sale-deeds constituted an implied claim or that no claim at all was made. It seems clear to me that, according to the terms of section 25 (1), a claim must embody a precise amount claimed, because that sub-section provides that the amount awarded may not exceed the amount so claimed. It may very well be, as decided in *Secretary of State v. Sohan Lal*(1), that the mere circumstance that the claim was not made upon the date fixed in the notice does not deprive the Collector of jurisdiction to entertain it. Every Court and every officer exercising quasi-judicial functions has, I think, an inherent power to grant an adjournment. The case more apposite to the present one is *Orient Bank of India v. Secretary of State*(2), which dealt with what was contended to be a claim but which was not in fact a legally sufficient claim, preferred by the Bank in a land acquisition case. There too, a sale-deed was filed and it was actually a sale-deed which included the property acquired. I think therefore that it is an untenable position to take up here that a claim in accordance with the terms of section 9 (2) was put in, nor am I prepared to say that, in accepting

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(1) (1918) 44 I.C., 883.

(2) (1926) I.L.R., 7 Lah., 416.

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the sale-deeds and in appreciating the evidence which they afforded, the Collector waived the necessity for such a claim, whether or not he had jurisdiction to do such a thing. Under section 11 of the Act, he is to enquire into the objections, if any, and make his award of the compensation which, in his opinion, should be allowed. There is never any question of such proceedings going by default. He must, to the best of his discretion, find out the true value of the land and I can see no objection to his using any material, even when it may be supplied by the applicant, without giving rise to the implication that he has recognized that a claim as required by the Act has been preferred. I agree accordingly that the appeal should be dismissed with costs.

N.R.

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*Before Mr. Horace Owen Compton Beasley, Chief Justice,
and Mr. Justice Curgenvven.*

1930,
January 22.

KANDUNNI NAIR (FIRST DEFENDANT), APPELLANT,

v.

ITTUNNI RAMAN NAIR AND EIGHT OTHERS (PLAINTIFF AND
OTHER DEFENDANTS), RESPONDENTS.*

*Secs. 5, 7 (iv) (b) and (v) and Sch. II, article 17 (vi),
Court-fees Act (VII of 1870)—No decision by Taxing
Officer under sec. 5, on sufficiency of court-fee on appeal—
Jurisdiction of Court to decide sufficiency, on hearing appeal—
Suit for possession alleging adverse possession by defend-
ant—Court-fee on suit and appeal—Court-fee on unascertained
mesne profits, if payable on appeal.*

If there has been no decision of the Taxing Officer under section 5 of the Court-fees Act, it is open to the respondent to

* Appeal No. 453 of 1928.