

from the nature of the work itself, I would accept the application of the petitioner and set aside the order of forfeiture. I would give applicant his costs. Counsel's fees will be measured at Rs. 250.

ADDISON J.—I concur.

COLSTREAM, J.—After carefully considering this case I do not find it certainly established by the evidence that the intention of the applicant in writing the book under consideration or any part of it was to promote feelings of enmity or hatred between different classes of His Majesty's subjects. For that reason I concur in the order which it is proposed to pass.

N. F. E.

*Petition accepted.*

### APPELLATE CIVIL.

*Before Mr. Justice Zafar Ali and Mr. Justice Jai Lal.*

COLLECTOR AND CHAIRMAN, DISTRICT BOARD,  
GUJRANWALA, Appellant,  
*versus*

HIRA NAND (OBJECTOR) Respondent.

Civil Appeal No. 593 of 1925.

*Civil Procedure Code, Act V of 1908, section 79—Appeal by or against Government—proper party—Acquisition of land by Local Government under Land Acquisition Act, I of 1894 for District Board, Gujranwala—Appeal by Collector or Chairman, District Board, Gujranwala, against the award of the District Judge on reference under the Act—Competency of.*

The Local Government acquired a plot of land for the District Board, Gujranwala, under the provisions of the Land Acquisition Act. Objection being taken to the amount of compensation, reference was made to the District Judge, who gave an award therein. An appeal being preferred

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against that award to the High Court on behalf of "Collector and Chairman, District Board, Gujranwala", it was contended that the Collector or Chairman, District Board, Gujranwala, was not competent to present the appeal.

*Held*, that the contention must prevail inasmuch as land had been acquired by the Local Government, and not by the District Board, and according to section 79, Civil Procedure Code, suits by or against the Government must be instituted by or against the Secretary of State in Council; the rule being applicable to appeals as well.

*First appeal from the award of Rai Bahadur Lala Ganga Ram Soni, District Judge, Gujranwala, dated the 13th December 1924, giving Rs. 19,688 as compensation for the land, etc.*

NIAZ MUHAMMAD and MUHAMMAD MONIER, for Appellant.

M. L. PURI and S. L. PURI, for Respondent.

The Judgment of the Court was delivered by—

ZAFAR ALI J.—As against the three connected civil appeals Nos. 593 to 595 of 1925, lodged in this Court on behalf of "the Collector and Chairman, District Board, Gujranwala," the learned counsel for the respondents raises two preliminary objections, namely (1) that the Collector or Chairman, District Board, Gujranwala, was not competent to appeal and the appeals were, therefore, not properly presented, and (2) that no copy of the judgment having been filed with the memoranda of two out of the three appeals, those two appeals must be rejected on that ground also.

The facts briefly are that the Local Government having acquired a plot of land for the District Board, Gujranwala, the three persons interested in the plot filed separate objections to the amount of compensation allowed by the Land Acquisition Officer,

and three references were accordingly, made to the District Judge of Gujranwala. These were registered at Nos. 11, 12 and 13 respectively, but the District Judge recorded a detailed judgment in one case only and for the reasons given therein enhanced the amount of compensation in each case. The three appeals mentioned above are against those three awards.

Mr. Niaz Muhammad, who had filed the appeals, at first conceded that the District Board has no *locus standi* to appeal, and argued that the appeals were on behalf of the Collector and that the addition of the words "and Chairman District Board" after the "Collector" was a superfluity. But he then found himself confronted with the difficulty that he had no power-of-attorney from the Collector. In each power-of-attorney filed by him the case is described as "District Board, Gujranwala, through the Chairman, District Board *versus* Hira Nand, etc.," and it is signed by the Chairman of the District Board. Assuming that the Chairman is also the Collector of the district, he gave no power-of-attorney to Mr. Niaz Muhammad in that capacity. Further, it is clear that the Collector in the Punjab is not the head of the district as he is in some other provinces of India. In the Punjab he is a Revenue Officer exercising certain powers under the Land Revenue and Tenancy Acts or some other special Acts, and the head of the district is the Deputy Commissioner.

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Mr. Niaz Muhammad then resiled from his original position and argued that as the party really affected by the award of the District Judge was the District Board which had to pay the compensation

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it was competent to appeal. But the land is acquired by the local Government, and this being so section 79 of the Code of Civil Procedure comes into play, which lays down that suits by or against the Government shall be instituted by or against the "Secretary of State for India in Council." This rule must apply to appeals also. We, therefore, find that the appeals have been filed by a person not competent to do so. Mr. Niaz Muhammad prayed for permission to have the power-of-attorney signed by the Collector which for obvious reasons we refused to grant.

With regard to the second contention also there is a clear authority of this Court in the *Secretary of State for India v. Tirath Ram* (1), but in view of our finding on the first objection it is not necessary to discuss this point here. We dismiss the appeals with costs.

The respondents' counsel dropped the cross-objections which are also hereby dismissed.

A. N. C.

*Appeal dismissed.*

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(1) (1928) I. L. R. 9 Lah. 76.