# State Of Madras vs Rev. Brother Joseph on 8 August, 1973

## Equivalent citations: 1973 AIR 2463, 1974 SCR (1) 309

## Author: Kuttyil Kurien Mathew

## Bench: Kuttyil Kurien Mathew, M. Hameedullah Beg

PETITIONER:
STATE OF MADRAS

Vs.

RESPONDENT:
REV. BROTHER JOSEPH

DATE OF JUDGMENT08/08/1973

BENCH:
MATHEW, KUTTYIL KURIEN
BENCH:
MATHEW, KUTTYIL KURIEN
BEG, M. HAMEEDULLAH

CITATION:
1973 AIR 2463 1974 SCR (1) 309
1973 SCC (2) 504

ACT:
Land acquisition-Compensation for fruit bearing trees-Method of fixing.

HEADNOTE:
The Land Acquisition Officer awarded compensation for certain land acquired and the method adopted by him for valuing coconut and orange topes was to capitalise the net income from those topes at 20 years' purchase. On reference,. the Subordinate judge, though he increased the estimated yield from the trees, accepted that the capitalisation should be at 20 years purchase. On appeal, the High Court also held that the method of capitalisation was a fair method for arriving at the market value.
Dismissing the appeal by the State to this Court.
HELD : The approved method for valuing orchards is to capitalise their net income at a number of years' purchase which has- to be fixed with reference to the nature of trees and other circumstances. [310 G]
In the present case, the Land Acquisition Officer found that

all the fruit bearing trees would yield for more than 20 years, and therefore, the method of capitalisation was a fair method. [311 A-D]

Kompalli Nageshwara Rao & Others v. Special Deputy Collector, Land Acquisition, A.I.R. 1926 Madras 945 (2) and Elias M. Coben v. Secy. of State, 43 Ind Cas 17(2) : A.I.R. 1918 Pat. 625, approved.

Shunmuga Velayuda Mudaliar and Others v. Collector of Tanjore, A.I.R. 1926 Madras 945, referred to.

JUDGMENT:

CIVIL APPELLATE JURISDICTION : Civil Appeals Nos. 1468-69 of 1967.

From the Judgment and Decree dated the 10th April, 1962 of the High Court of Madras in Appeal Suit Nos. 63 and 78 of 1959.

A. V. Rangam and A. Subhashini, for the appellant. V. M. Tarkunde and Naui it Lal, for the respondent. The Judgment of the Court was delivered by MATHEW, J. These two appeals, by certificate, are directed against the judgment and decree of the High Court of Madras in A.S. Nos. 63 and 78 of 1959 dated April 10, 1962. The appellant, the Government of Madras, acquired 9 acres and 86 cents of land in Tirunelveli District as it was needed for reserve area in Block III of Manimuthar Project. The notification under s. 4(1) of the Land Acquisition Act was published on March 7, 1956.

The area of the land with which we are concerned in this appeal is one acre and 59 cents comprised of 3 topes, of coconuts and oranges, The Land Acquisition Officer, by his award, gave a total compensation of Rs. 28,572-15-6 inclusive of solarium'. The method adopted by him for valuing coconut and orange lopes was to capitalize the net income from these lopes at 20 years' purchase.

Dissatisfied with the award 'he respondent moved for reference under s. 18 of the Land Acquisition Act and the case was referred to the Subordinate Judge, Tirunelveli. The learned Subordinate Judge increased the estimated yield from the coconut and orange trees as well as the price of the yield but capitalized the net income at 20 years' purchase. Against this decision, the State of Madras filed A.S. No. 63 of 1959, while the respondent filed A.S. No. 78 of 1959 claiming a further enhancement. The High Court, by the common judgment under appeal, allowed the appeals in part and dismissed them in other respects. As regardrs the coconut and orange topes, the High Court held that capitalization of the net income at 20 years' purchase was a fair method for arriving at their market value.

In this appeal, the only point argued by counsel was the High Court went wrong in capitalizing the net income of the topes at 20 years' purchase. Counsel relied on the. decision of the Madras High Court in Shunmuga Velavuda Mudaliar and others V. Collector of Tanjore(1) where it was held that the proper method to find out the market value of coconut garden would be to capitalize the net income from the garden at 10 years' purchase and said that there was no reason for the High Court to depart from the principle there laid down.

It may be noted that no reason was given in that ruling why capitalization of the net income should be at 10 years' purchase. All that the Court said was "In Rajammal, v. Head Quarters Deputy Collector, Vellore (1914) 25 I.C. 393, a Bench of this Court estimated the value of a tope of trees at '20 years' annual rental; but those were mango trees which as stated by the learned Judges, are long lived and yield produce for a number of years."

There was no discussion in the judgment of the principle on the basis of which such a mode of calculation was adopted. In Kompalli Nageshwara Rao & Others v. Special Deputy Collector, Land Acquisition (2 ) the Court said that the approved method for valuing orchards is to capitalize their net income at a number of years' purchase which has to be fixed with reference to the nature of the trees and other circumstances and capitalized the net income at 15 years' purchase for finding out the market value of the coconut garden and the orange orchard in question-in that case. In Elias M. Cohen v. Secy. of State(3), the net income from an orchard was capitalized at 15 years' purchase to find out its market value.

In this case, the Land Acquisition Officer found in his award that all the fruit bearing trees will yield for more than 20 years. That was (1) A.I.R. 1926 Mad. 945 (2).

(2) A.I.R. 1959 A.P. 52 at 62.

(3) 43 Ind. Cas 17(2): A.I.R. 1918 Pat. 625(2) (Q).

the reason which weighed with him to capitalize the net income of these topes at 20 years' purchase to find out their market value. We do not think that the learned Subordinate Judge and the High Court went wrong in accepting this estimate of, the average yielding life of coconut and orange trees. Therefore, we do not think that the capi- talization of the not yield from these topes at 20 years, purchase was not a fair, method to arrive at the market value of these topes. We are not satisfied that the method of valuation adopted for finding out the market value of the topes was. in the circumstances, in any way unreasonable. The appeals fail and they are dismissed with costs. V.P.S. Appeals dismissed.